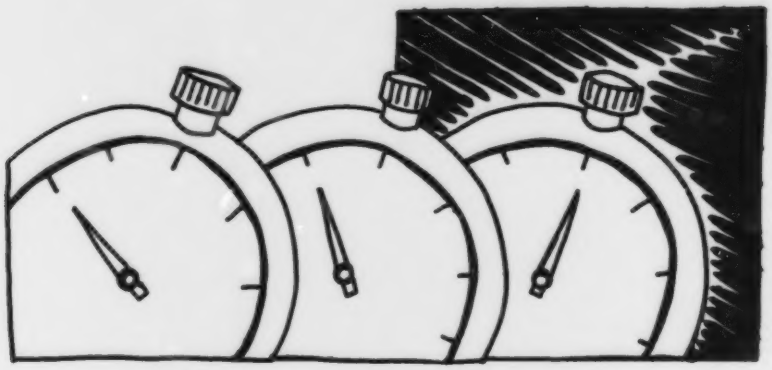
Time For Action



Principal Report of
the Advisory Group
on New Social
Assistance Legislation

Report on
Legislative Reform

MAY 1992

Ontario

Errata

A number of corrections should be made on the text of ***Time for Action*** as follows:

Numerical Corrections:

- Page 26, Table 1 should read as follows:

Table 1

Social Assistance Rates
January 1992

Recipients*	Monthly Maximum Shelter	Monthly Basic Needs	Monthly Total	Annual Total
1 adult (GWA)	$400	$246	$646	$7,752
1 adult (Disabled - Boarder) (FBA)	n/a	$701	$701	$8,412
1 adult (Disabled) (FBA)	$400	$511	$911	$10,932
1 adult, 1 child (under 12)	$625	$563	$1,188	$14,256
1 adult, 2 children (both under 12)	$680	$671	$1,351	$16,212
1 adult, 2 children (1 under 12, 1 over 12)	$680	$722	$1,402	$16,824

* Renters and owners, unless otherwise noted

- Page 27: The last sentence should read: A sole support parent with two children, one under 12 years and one older, receives $16,824.

- Page 29, Table 4: The line $30,000 - $39,000 under the column "Income intervals" should read $30,000 - $39,999.

Other Corrections:

- Page ix, Table of Contents: The title of Appendix 3 should read "Project Team Leaders/Co-Chairs and Members.

- Page 189, Direction 25: A second point should be added to this direction, "Legislation should refer to the generic title of delivery staff, and regulations should define the functions of the various field staff positions."

- Page 212: Under the heading "North Bay, October 22, 1991", the line "Town of Cobalt, Timaskaming Municipal Association" should read "Town of Cobalt, Timiskaming Municipal Association".

- Page 216: The title of Appendix 3 should be added as follows: Project Team Leaders/co-chairs and members.

- Page 219: In column two the name David Mercer is repeated from column one.

93-00438/

Time for Action

Comments on this Report should be addressed to:

Social Assistance and Employment Opportunity
Ministry of Community and Social Services
56 Wellesley St. W., 4th Floor
Toronto, Ontario
M7A 2B7

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May 1992

Honourable Marion Boyd
Minister of Community and Social Services
6th Floor, Hepburn Block
Queen's Park
Toronto, Ontario
M7A 1E3

Dear Ms. Boyd:

We submit to you today the second Report of your Advisory Group on New Social Assistance Legislation.

Our purpose was to prepare for you our advice on the major issues in the development of new unified social assistance legislation. In fulfilling the terms of our mandate, our report outlines the issues which we believe should be addressed directly in a new social assistance act as well as those which should be further specified in regulations. We have also outlined the principles which we believe should be the basis of new legislation.

We have reviewed many of the recommendations of the Transitions Report of the Social Assistance Review Committee submitted to the previous government in September, 1988, as well as a group of additional issues which arose from our own discussions and from the many consultations which we have undertaken as a part of our work.

The First Nations Project Team has prepared a separate report on social assistance and First Nations Communities which they will be releasing to you directly.

We hope that this report serves as a sound basis for discussion and decision as your government moves to implement a unified social assistance act and a unitary social assistance delivery system for Ontario.

Yours sincerely,

Allan Moscovitch
Chair
Advisory Group on New Social Assistance Legislation

Patrick Case

R.K. (Joe) Miskokomon

Jacques P. Coté

Duncan J. Mac Donald

Reverend Susan Eagle

Lana Mitchell

Amy Go

Susan Pigott

Cathy McPherson

Dick Stewart

Julie White

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Preface and Acknowledgements

The Advisory Group

The Advisory Group on New Social Assistance Legislation was appointed by the previous government in May of 1990 to provide community based advice to the Minister of Community and Social Services, Charles Beer, on how to transform the many recommendations of the Social Assistance Review Committee into new social assistance legislation.

We are a 12 person committee drawn from the different regions of the province and from different backgrounds and interests. During the life of the project, we have had several changes in membership. Mary Jane Mossman, a lawyer teaching in the Faculty of Law at Osgoode Hall, York University, was unable to remain with the Advisory Group before the completion of our first report. She was replaced by Patrick Case, a lawyer who was then a member of staff of Parkdale Community Legal Services, and has since joined the staff of the Toronto Board of Education as coordinator of Employment Equity.

Courtney Pratt, Senior Vice-President at Noranda and Julie Davis, Secretary-Treasurer of the Ontario Federation of Labour resigned after the completion of the first report. Julie White, National Manager, Public Affairs for Levi-Strauss Corporation and Duncan MacDonald, Programs Coordinator of the Ontario Federation of Labour joined us as we were preparing to write our second report.

The Mandate

The mandate of the Advisory Group on New Social Assistance Legislation, set out in the Terms of Reference for the Advisory Group, is to advise the Minister on options for the development of new social assistance legislation. Recommendations number 1 and 270 of Transitions, the Report of the Social Assistance Review Committee were to be the base of our work.

Recommendation number 1 proposed that the Family Benefits Act and General Welfare Assistance Act be merged into one new piece of legislation. Recommendation number 270 recommended that the new Act should have a preamble setting out principles of legislation, and that the essential elements of the new legislation be set out in statute rather than in regulations or policy manuals. The latter recommendations also proposed that the development of new legislation should include a public consultation.

The First Phase of Work

Following our appointment, the Advisory Group set up a monthly schedule of meetings. In addition we had been asked to coordinate a study of the Supports to Employment Program (STEP) established by the Ministry of Community and Social Services in the spring of 1989. Discussion at the early meetings focused on project structure, the Terms of Reference of the Project Teams and the purpose and the content of the STEP evaluation.

During this phase we considered ways of ensuring that the advice of front line welfare workers and consumers would be better reflected in our consideration of the issues. A Project Team structure had been devised to carry out the background research and policy analysis which would assist the Advisory Group in making recommendations on the structure of new social assistance legislation. At the initiative of the Advisory Group, the Project Teams included the involvement of consumers and front line workers.

The Advisory Group also proposed the use of focus groups to provide the project with the benefit of the experience and insights of individual consumers and welfare workers. Thirty-four focus groups of between ten and fifteen participants were held with the assistance of local facilitators. Summaries of the results of the consumers and the front line workers focus groups became valuable input into the work of the Project Teams and the Advisory Group.

We also had to establish how we would conduct our discussions in the Advisory Group. We agreed that we would try to find a consensus on the many issues that we would have to address and use a formal vote only when we found it necessary. This committed us to trying to find points of agreement and established a positive tone for discussion. This also meant agreement that discussions in the Advisory Group would be held to be confidential. We also agreed to use the rule that documents associated with the project should be made public when ready and not be held as confidential unless there was a very good reason to do so. Lastly we agreed that the Project Team documents would be released when the team members reached agreement and would not require sign off from the Advisory Group.

The Second Phase

During the summer of 1990 the project was delayed because the government declined to provide the necessary funding. Without secure funding the project was put on hold while we waited for the outcome of the election.

In September of 1990 the election brought in a change of government and a change of Minister. The new Minister was Zanana Akande who met with us early in October. We were assured that funding would be available for the completion of the project. In addition she asked the Advisory Group to produce a report as soon as possible which would outline what steps could be taken by the government in the short term to advance the reform of social assistance.

We agreed to produce a report within three months containing a series of action items which if implemented would move social assistance reform in the same direction as that envisaged in the *Transitions* report. This was the premise of the Back on Track Report released in March of 1991.

We estimated that *Back on Track* would cost $450 million dollars to implement based on the numbers of persons in receipt of social assistance in late 1990 and projections of the numbers of additional persons who might find it necessary to turn to social assistance in 1991.

In March and April, the government considered the *Back on Track* Report and gave a commitment in the 1991 Budget to spend a total of $215 million new dollars on the implementation of roughly two thirds of the actions items outlined. Ministry staff worked hard to ensure that the documentation was in place for implementation by October of 1991. While the Advisory Group retains some concerns about the disposition of some of the items on which the government agreed to act, in general we were pleased that the government was prepared to act so quickly and decisively.

The Third Phase

After the release of the *Back on Track* report the Advisory Group was able to return to the task set out in the mandate: the preparation of a report on a unified social assistance act.

To accomplish this task, the staff of the Legislation Development Section had undertaken a thorough review of the points of similarity and difference between the two pieces of legislation. This review and many of the recommendations of Transitions formed an agenda of 240 issues for consideration in the development of new legislation.

Six Project Teams were established to research a constellation of issues chosen from amongst the agenda of 240. Each Project Team was given the task of providing the Advisory Group with the results of their background research and with a series of options for each issue.

The First Nations project team was responsible for the preparation of a report which is being released separately with the endorsement of the Chiefs of Ontario. The Advisory Group was not satisfied with the extent to which we were able to hear from and respond to the needs of Native people who do not live in First Nations communities. For this reason, we have recommended that the Ontario government undertake to support a community based consultation on social assistance for Native people who live outside First Nations Communities, directed by and for Native people.

Each project team has had a team leader with responsibility for coordinating the work of the team and the team's budget. While the selection of Team members varied according to the team, each project team included provincial and municipal staff, staff from community social service agencies, advocacy groups, consumers, and others.

Background papers were prepared by individuals and groups of team members as well as by outside consultants in some circumstances. These materials were used by the teams to develop the options which were presented to the Advisory Group. All of these materials have been made available to the public as they were completed. They form an important legacy of the work of the many people who contributed to the development of new legislation.

Each project team was responsible for preparing a final report from the team and for making a presentation to the Advisory Group covering the major issues which they had been asked to address and the options which they had developed. These presentations were scheduled over the period from June 1991 to January 1992.

During the period of the presentations the Advisory Group began the process of preparation of the report. Extra work days and work time were added to ensure that as a group we would have the opportunity to consider each of the many issues.

During October of 1991, a series of public consultation sessions were held in London, Toronto, North Bay, and Ottawa to hear from the public on the same issues which we were in the process of considering ourselves. To this end we produced a consultation document outlining what we considered were the 16 major groupings of issues which we would have to address in the report. We asked for oral presentations or written briefs or both on one or more of these issues. What we received were extremely valuable contributions to our discussions. A synopsis of what we heard is available in a package which includes the results of the focus groups as well.

By March of 1992, a draft of the final report was completed and accepted by all members of the Advisory Group. The remaining time to release has been required to prepare the report for publication.

A project of this size and scope requires the contributions of many people for success. We have been grateful for the time and energy that they have devoted to the task of completing this report.

We have taken as a base the work of the Social Assistance Review Committee which completed their report, *Transitions*, over the period from 1986 to 1988. We are grateful to George Thomson who chaired, the committee members, the staff, and the many people who were part of the 1500 briefs and presentations to the Social Assistance Review Committee.

Transitions was greeted favourably by virtually all sectors of Ontario society. We are grateful as well for the many community based groups that formed the SARC Network who worked to keep the report and its recommendations in the public eye until in 1989 the previous government introduced the STEP initiative and in 1990 appointed the Advisory Group.

We remain optimistic that despite and perhaps because of the drastic changes in the economic conditions in the Province of Ontario, the reform of social assistance will be realized in the government's response to the report of the Advisory Group. Six years is a long time to wait. It is for this reason that we decided to title this report *Time for Action*.

As a community based Advisory Group we are appreciative of the opportunity presented to us to work with government in a different way. In this case we have been asked to prepare a report on the way in which legislation could be implemented, to work closely in conjunction with Ministry staff, and to present our report directly to the Minister. It is a wholly different model of community participation and one which we would hope may in future be emulated elsewhere.

In preparing our report we have benefited from the support of two past Ministers of Community and Social Services, Charles Beer and Zanana Akande, and the present Minister Marion Boyd. We have appreciated the support of the present government which made a decision early in its mandate to provide the relatively modest funds necessary for the completion of the project. We have received the support provided by the staff of all 3 Ministers, including Lyn Lovell, Andy Ranachan, Christa Freiler, Nuzhat Jafri and Tazim Hassan.

We have also benefitted from the support and involvement of two Deputy Ministers during the life of this project. We extend our appreciation to Val Gibbons and to Charles Pascal the present Deputy Minister of Community and Social Services.

Our Project Teams played a crucial role in the preparation of this report. The names of the members are listed in Appendix 3. The team leaders, David Mercer, Moosha Gulycz, Pat Millar, Marilynne Glick, Ron Mahy, Audrey Hill and Marie Tincombe-Shaw were responsible for the organization of their teams and were the bridge between the team and the Advisory Group. Mark Woollard and Jim Loft who both began as project team leaders withdrew during the life of the project. Our thanks to you all.

The focus groups of consumers and frontline workers provided the project with an alternative route to obtaining input from the persons who would be most directly affected by reform. We are grateful for the involvement of Josephine Grey who acted as the coordinator for the consumer focus groups and to Heather-Anne Driver and Joan Spence of the Legislation Development Section who assisted in the completion of the Consumer report. Thanks also to the members of the Front-line Focus Group Task Force who helped in the organization of the frontline workers sessions. Lastly we thank the many workers and consumers who were prepared to give us their time and advice.

We extend our thanks also to the many people who participated in the organization of the 5 consultation days held in October 1991 and in the 95 oral and written briefs that were presented to us.

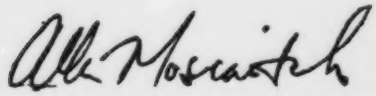
Within the Ministry of Community and Social Services several senior executives constituted a steering committee to assist the work of the Advisory Group. As Chair of the committee, Jane Marlatt has provided us with considerable assistance. As Acting Director of Income Maintenance over much of the last 10 months Alison Fraser has also provided needed assistance. We are also grateful for the contribution of Richard Haddad in the preparation of data for our report.

The Legislation Development Section of the Income Maintenance Branch of the Ministry has acted as the secretariat for this project. They have worked long and hard to assist us in getting to the end of the work and in completing the report. Marilynne Glick, Heather-Anne Driver, Joan Spence and Sarah Kramer provided research, organization and advice on the many issues addressed in the report while Linda Morgan, Sophia Argirovski and Dyane Beaupre provided the administrative support necessary for the success of the project.

The writing of the report was undertaken by Cheryl Hamilton. Superlatives cannot describe adequately the effort that she put into drafting and redrafting the report to arrive at the point that the 12 different member of the Advisory Group could be satisfied with the final product. Our thanks to Cheryl not only for her work but for her willingness to work with us collaboratively.

As the Manager of the Legislation Development Section, John Stapleton has been advisor, consultant, researcher, and administrator. His patience, his comprehensive knowledge of the social assistance system, and his commitment have been crucial ingredients in arriving at the final report. We greatly appreciate the many hours that he has devoted to working with us on this project.

Lastly, as Chair of the Advisory Group, I would like to thank the members of the Advisory Group for their hours of effort, their many good ideas, their commitment to the project and to working collaboratively to accomplish our mandate. It has been demanding and stimulating. Thank you for the opportunity to work with you.



Allan Moscovitch
Chair,
Advisory Group on New Social Assistance Legislation
April 1992.

Members of the Advisory Group

Allan Moscovitch, Chair of Advisory Group, Professor, School of Social Work, Carleton University, Ottawa.

Patrick Case, Equity Advisor, Toronto Board of Education, formerly counsel with Parkdale Community Legal Services, Toronto.

Jacques P. Coté, former member of Social Assistance Review Committee, Justice of the Peace, Hearst.

Reverend Susan Eagle, Minister and Community Outreach Worker for the United Church, member of Ontario Interfaith Social Assistance Reform Coalition, London.

Amy Go, Supervisor of Immigrant Services, Woodgreen Community Centre, Toronto.

Cathy McPherson, Policy Analyst, Office for Disability Issues, Ontario Ministry of Citizenship, formerly with Advocacy Resource Centre for the Handicapped (ARCH), former member of Income Maintenance for the Handicapped Co-ordinating Group, Toronto.

R.K. (Joe) Miskokomon, Grand Council Chief, Union of Ontario Indians, Councillor for the Chippewa of the Thames First Nation, Muncey.

Duncan J. Mac Donald, Programs Coordinator, Ontario Federation of Labour, Toronto.

Lana Mitchell, Executive Director, Low Income People Involvement of Nipissing (L.I.P.I.), member of Ontario Advisory Council on Women's Issues, North Bay.

Susan Pigott, Director of Allocations and Community Relations, United Way of Greater Toronto, formerly with Family Service Association of Metro Toronto, Past Chair of the Child Poverty Action Group, Toronto.

Dick Stewart, Deputy Commissioner, Social Services Department, Regional Municipality of Ottawa-Carleton, Past President of Ontario Municipal Social Services Association, Ottawa.

Julie White, National Manager, Public Affairs, Levi Strauss & Co. (Canada) Inc., Markham.

Introduction and Summary: A Call to Action

Time for Action

Social assistance in Ontario must be rebuilt from the ground up. As independent advisors to the Minister of Community and Social Services, this Advisory Group strongly urges the Ontario Government to move forward with new legislation that will set the system on a new course.

> *"...if the system is perceived to be moving in a planned way from being one that so clearly does not work to one that does, we believe there will be the public support that makes change on this scale possible."*
>
> Social Assistance Review Committee: *Transitions*

Ontario must turn social assistance into a dynamic program that contributes to economic renewal.

Reform of the social assistance system is key to the success of economic renewal in Ontario because it represents a way to draw on the abilities of people who have traditionally been consigned to the margins, whose potential to contribute has not had a chance to develop fully. At stake is not just the economic well-being of individuals, but the economic well-being of the entire province. Competitiveness has become the watchword of the 1990s. Ontario must harness all its resources to meet the economic and social challenges ahead. This province cannot afford to waste the potential of any of its people.

Social assistance must be redirected to fit within a comprehensive socio-economic development strategy aimed at providing Ontarians with the best income security there is – a good job.

We are not talking about a system that forces people to participate in public make-work projects or lock-steps them into training programs. Such initiatives are proven failures of the past. They do not solve the fundamental problems in the economy, nor do they address the anguish of people who have hit hard times, who do not have skills which are in demand or who face many other systemic and personal barriers to employment.

We are talking about a system that offers people opportunities for growth and development, while providing the security and support that they need to be able to use those opportunities. It is not enough to provide the financial means to survival and a piece of paper that says someone is employable or not. Most people who receive social assistance want to work and support themselves. The system should actively help them achieve that goal.

The current system is under attack by critics on both sides of the political spectrum – accused by some of condemning people to live in poverty and by others of failing to provide enough incentives to work. It is guilty on both counts.

Right now, almost all the resources of the system are concentrated in handling the thousands of new applicants every month, rather than helping recipients find their way out of the system through training opportunities or supports to employment. If the system is left as it is, it will continue to create a poverty trap from which it is difficult for people to free themselves, and few resources will be available to help recipients find employment and make the transition to independence.

Since 1990, a recession in the Ontario economy has caused an overload of demand on the system. The system is not equipped to respond efficiently. Social assistance has a cumbersome and expensive delivery system. While the public may think that there is one welfare system in Ontario, there are really two, one provincial and one municipal, each operating under its own Act. There are duplicate administrations. Many people apply first for municipal welfare, and then make another application to the provincial Family Benefits program, which has a different set of eligibility requirements.

In the past, duplicate municipal and provincial welfare systems may have been considered affordable. No longer. The system must be unified and streamlined.

The only way to make the system more understandable, consistent, streamlined and cost-effective is to redesign it. It requires a new legislative framework. It must operate under a single Act with a coherent set of clear directions. Since the 1980s, particularly since the release of *Transitions*, the report of the Social Assistance Review Committee (SARC) in 1988, there have been some improvements in the system through regulatory and policy changes. But they have not turned the system around.

There are those who believe that the *Transitions* report has been implemented and that its reforms are the cause of the increase in costs of social assistance in the 1990s. This is simply not true. Only a very small part of SARC's blueprint for reform has been implemented. *Transitions* called for a major overhaul of social assistance, beginning with an initial phase of immediate reforms, followed by new legislation. Some of the immediate reforms were implemented in 1989, followed by a number of others in 1991 in response to *Back on Track*, the interim report of this Advisory Group. But without new legislation – which is the focus of this report – the system remains substantively as it was.

What has caused the bulk of the increase in the number of people receiving social assistance in the last two years is the impact of recession and restructuring of the Ontario

economy. Today's larger and more expensive social assistance system is the consequence of an economy in crisis.

Social assistance has become the catch-all for the casualties of a failing economy.

Social assistance has become the single most significant program in Ontario to respond to the problem of poverty and economic dislocation. The welfare office is the place where people go because they have nowhere else to turn. Since 1989, the number of men, women and children in Ontario depending on social assistance has risen by over 42 per cent to more than one million. In a single year from June 1990 to June 1991, the proportion of the Ontario population under age 60 in receipt of social assistance rose from 8 per cent to a staggering 14 per cent. It is still climbing in 1992.

A system intended to be a last resort for people in need has become instead Ontario's main line of defence against economic adversity.

Governments at all levels are struggling with mounting fiscal pressures; the result is that programs and services are being curtailed. It is harder than in the past, for example, to qualify for unemployment insurance, and for many of those who do qualify, the unemployment benefits do not last long enough to carry them through until they can get another job. Social assistance becomes the only alternative. The same is true of other programs providing social, health and employment services; when access is restricted, the welfare system is expected to pick up the hardship cases that program shortfalls leave behind.

If social assistance is the only place to get a variety of social supports, more people will rely on it by default. If other programs and services are effectively closed to social assistance recipients, more people will become trapped in the system. And costs will continue to rise. Social assistance must be linked to other mainstream and specialized programs so that recipients can get access to the education, housing, child care, counselling, training and adjustment programs and other supports which they need to become self-sufficient.

Social assistance cannot – and should not – do it alone. It must be part of a wider solution to fight poverty and revive the economy.

Social assistance is not the solution to all the problems of poverty and social and economic disparity in Ontario society. Social assistance provides income support for people who are in need; it does not address the many complex causes of poverty. If we make the system more proactive and supportive in helping people to get into the mainstream of society, we still will not have addressed the major systemic factors which brought people to the welfare office in the first place.

It must also be recognized that total independence of the system may not be possible for some people.

A new system more oriented toward providing supports and services that will help recipients participate in education and training and get jobs must not ignore those people for

whom such activities may not be appropriate. Some people who are ill or disabled may not be able to work, but they may become more involved in community life, if given the opportunity. The system must be prepared to support people who are in need in a way that respects their individual dignity and recognizes society's collective responsibility for the well-being of all its members.

The Ontario government has made it clear that it is looking for new and better ways of providing necessary public services more efficiently. This report strives to do just that.

With more and more people needing assistance in Ontario's battered economy, and more and more of them falling through the cracks in other social programs, social assistance costs have soared, and pressure has mounted to cut back. Costs of social assistance have grown from $2.5 billion two years ago to $5.2 billion in 1991-92. Projections for 1992-93 are over $6 billion. Some people have argued that the best way to deal with rising costs is to make social assistance harder to get or harder to live on. Such a response would penalize unfairly those members of our society who have been hurt most by lack of economic opportunity. The answer is not retrenchment. Welfare cutbacks do not address the major challenges facing the Ontario economy. We do not believe that the taxpayers of Ontario want to have more people living on the streets or lined up at food banks or more children going to school hungry. They want to be assured that their dollars are spent effectively to support people in genuine need.

We are convinced that much of what is proposed in this report will result in better use of taxpayers' dollars. Ending the duplication of two welfare administrations will result in a more cost-efficient system. Reorienting the system to emphasize supports leading to employment will help more people to get back into the workforce and will contribute to economic growth. These medium- to long-term savings will require a front-end investment in building a new system. Much of what needs to be done can be accomplished through reallocation of funds, if the commitment is there to do it. Implementing reform of social assistance through new legislation must be a priority.

Transforming social assistance into a system equipped to meet the challenges of the 1990s and the next century is not just a matter of money.

The merits of reform must be considered not simply in the context of spending or saving money. We recognize that the fiscal impact is important, but there is more to reform than dollars and cents.

There is much that can be done that is cost-neutral. The two Acts which govern Ontario's dual system: the General Welfare Assistance Act (GWA) and the Family Benefits Act (FBA) are products of another time. GWA was enacted in 1959 and FBA in 1967. There have been many incremental changes to the regulations under these Acts over the years, but the changes have not altered the basic construct of the system as a whole.

New legislation must be designed for the long term. One of our major recommendations is to put the system on a new philosophical base. Providing guidance as to the values which should underpin the system is not a matter of money. But it should have a profound impact on

a system which has essentially been without a unifying value system for 25 years. This lack of direction has caused confusion for recipients and workers and conflict between them. The system must also recognize the substantive and procedural rights of recipients. It is unacceptable in 1992 to have a system that does not in itself conform to the fundamental rights protected by the Canadian Charter of Rights and Freedoms.

Economies are not simply about dollars; they are about people. Social assistance reform is not just about a system; it is about people.

People receiving social assistance are struggling to hold families and lives together, and rapidly losing their self-esteem within a system that fosters dependency. We cannot justify putting off reform to the million Ontarians – 41 per cent of whom are children – who are relying on social assistance. Reform must also be considered in the context of our obligations to each other and to the future we will share.

Politically, there is probably never a good time to reform social assistance. In good times, one can argue that there is no need for change, and in hard times, one can argue that the system is under too much pressure to change course. The status quo seems safer – why not wait for recovery? There are compelling reasons why not.

If Ontario postpones enacting a new social assistance law, the Province will be perpetuating a system that is clearly not working. It is not working for the people who receive assistance; it is not working for the people who deliver the program; and it is not working for the benefit of society as a whole.

If the Province puts reform on hold to wait for economic recovery and a kinder political climate, we may lose the opportunity to transform the system so that it can act as a springboard to a better future for recipients. These are people who should participate in, and contribute to rebuilding Ontario's economy. One of the tasks of economic renewal is to prepare the workforce for the economy of the twenty-first century. Leave the system as it is and many recipients will be left out. They will continue to be marginalized by poverty, discrimination and lack of opportunity. Ontario cannot afford this loss.

We are convinced that there is no better time to act than now.

Successive provincial governments of all political stripes have talked about legislating a new social assistance system. The commitments go back at least 10 years. No new legislation has been produced because the problems that accompany major change – the disruption to the system, the impact on staff and labour relations, the challenge of settling major questions of funding and delivery – have loomed more prominently than the benefits of change.

There comes a time, however, when the liability of not taking action outweighs the expediency of the status quo. That time is past for social assistance.

New Legislation for a New System

This report is about new legislation. It sets out recommendations for the next steps in the process of transforming social assistance. *Transitions* provided the blueprint for new legislation, and called for a consultation process to be part of the development of that legislation. We describe our consultations in the next chapter. Our task as the Minister's Advisory Group on New Social Assistance Legislation has been to build on the work of the Social Assistance Review Committee. But we have not simply echoed *Transitions*. On some legislative questions, we have expanded on a SARC recommendation for the purposes of implementation. In some areas, where we heard good reasons why another solution would fit the realities of the 1990s better, we have proposed an alternative option. Nevertheless, the spirit of *Transitions* is reflected clearly throughout our report.

Key issues which are dealt with in this report are listed below. They are not in order of precedence. They follow the general organization of the report.

A Unified System

New legislation should replace the existing General Welfare Assistance Act and the Family Benefits Act and create a unified program for all recipients of social assistance, with a single-tier delivery structure.

Principles and Criteria for Decision-Making

New legislation should provide guidance on the fundamental purpose and underlying principles of the system. The rights that people can expect to have fulfilled should be explicitly stated in each section of the Act. Legislation should include specific criteria for decision-making throughout the Act to ensure greater consistency and fairness and to limit the use of discretionary authority.

Two Categories Based on Need

The current maze of eligibility categories based on deservedness should be abolished. New legislation should recognize only two basic categories of eligibility based on need: persons with disabilities and all others. Persons with disabilities should receive a supplement above the basic allowance to cover the additional costs of living with a disability.

A New Approach to the Benefit Unit

The benefit unit should establish the principle of treating people as individuals, which has not been done in the past. However, in order to ensure that social assistance remains a program for persons *in need*, a major exception to the individual approach is made when an individual is living with a spouse who has a legal obligation to provide support. The proposed benefit unit attempts to make as few assumptions as possible about people's lives and circumstances. It takes into account any income actually received from any source. It also

allows the system to take action to meet real needs, even when there are legal obligations by spouses to provide support, in circumstances where there is hardship.

A New Definition of Disability

There should be a new definition of disability in legislation which takes into account social factors, as well as medical condition. The determination process should involve experts in rehabilitation and vocational issues to assist physicians in making a decision on disability for the purposes of social assistance.

Financial Testing

Treatment of assets and income and needs testing should be clarified, updated and incorporated into law.

Opportunity Planning

New legislation should establish opportunity planning as a central component of a new social assistance system. Opportunity planning will lead to a job for many recipients; for those who are unable to work, it will foster greater participation in community life. Opportunity planning involves supporting recipients in their goals to further their education, develop their skills and find employment. The system will likely be overwhelmed with demand for opportunity services and supports by recipients who are looking for a way to get off social assistance. Recipients who decide not to participate should not have their allowance or benefits reduced.

Opportunity planning should not be restricted to a particular person in the system, but should be viewed as a process which requires the expertise and commitment of all staff.

Market Basket and Shelter

New legislation should provide a benchmark – a market basket of goods and services – on which to base social assistance rates. Currently, the government has no consistent standard by which to measure the adequacy of rates. Government retains a prerogative to set the actual rates, but it should have to set those rates with reference to a market basket that shows what people need to live on, according to social norms. Rates should be updated annually. The supplement of the allowance for persons with disabilities should also be based on a market basket calculation.

Shelter should be treated separately from the market basket. Actual shelter costs should be reimbursed up to a ceiling, based on household size. The weighted average of the Canada Mortgage and Housing rental survey should be used to calculate the ceilings. Heating fuel costs should be calculated separately from shelter and paid at actual costs up to a ceiling.

Special Needs

Special needs are now met through programs which are optional for municipal delivery agents (they can provide them or not) and subject to budget cutbacks. New legislation should establish that special necessities, including medical requirements, are provided on a mandatory basis. Basic and emergency dental services should also be mandatory. A benefit to help people out in emergencies should be available on a discretionary basis. The needs test for access to special needs by low-income people should be standardized and simplified.

Provincial Funding

Senior levels of government must assume full responsibility for funding of social assistance, including allowances, benefits and administration, relieving municipalities of their share of welfare.

Provincial Authority and Field Mission

The Province should assume its rightful responsibility for overall direction of the system, including enforcing legislative standards for delivery across Ontario. New legislation should clarify and reinforce provincial authority to oversee the system. A field mission statement should be included in legislation to provide guidance as to how the program should be delivered and the role of staff in the field.

Delivery Agent

The Province should make a decision on who will deliver social assistance in the new unified system: the province, municipalities, a combination of the two, or some other delivery agent. Whatever option is chosen, there can only be one delivery agent in any given location. The Province must set principles, standards and conditions for delivery.

Council of Consumers and Rights of Recipients

Legislation should require the formation and operation of a Council of Consumers. This Council should have a key role in advising the government on all facets of social assistance.

The rights of recipients, such as the right to use an advocate and the right to receive adequate, written notice of major changes in their allowance, should be established explicitly and clearly in legislation.

Internal Review and Access to Appeal

The appeal system should be reformed to ensure that the rights of recipients are protected. Legislation should require that an internal review process be available to recipients who choose to use it. Grounds for appeal to the Social Assistance Review Board should be expanded.

First Nations Communities

The situation of First Nations communities is unique. The solution to the economic and social problems of aboriginal peoples is to regain control of their own communities. We respect and support the position of the First Nations that they must have self-determination to set their own course. We have therefore left recommendations on the future of social assistance on reserves to the First Nations themselves. There is a separate report on social assistance reform prepared by the First Nations Project Team. We also comment on social assistance delivered off-reserve later on in the report.

Background and Consultations

Blueprint for Reform

Transitions

This report is the result of a process which began well before the Advisory Group on New Social Assistance Legislation was created. The movement for positive change in the social assistance system began in 1986 when the Social Assistance Review Committee (SARC), chaired by George Thomson, was appointed. The task of the committee was to consider how to update and improve a system that had been created a generation ago.

> *"Our members became interested in welfare reform simply because, when you live on Family Benefits, the system's shortcomings affect your life very significantly."*
>
> Darcy Elgin
> Residents Association,
> Northumberland County

SARC issued its report, *Transitions*, in 1988. It found the system to be in urgent need of major reform. The report documented the failings of the system with detailed analysis covering over 600 pages of text. It described a system rife with inequities and inconsistencies; it found allowances and benefits provided to recipients to be inadequate, as well as unfair; it was critical of the disincentives put in the way of people who might otherwise be able to leave the system; it also found the system to be lacking in accountability mechanisms to ensure its overall effectiveness. *Transitions* put forward a blueprint for reform which represented a landmark in social assistance reform. It received wide public support and generated interest in social assistance reform across the country.

Transitions envisioned a restructured national income security system which included a disability insurance program, a children's benefit program and an income supplementation program for the working poor. Implementation of these programs would make social assistance into a much smaller system because children, persons with disabilities and low-income earners would no longer need it.

However, pending the realization of this vision, Transitions recommended that the social assistance system be transformed into a fairer, more accessible, more humane and more opportunity-oriented system for people in need. It made recommendations for achieving its vision in stages, beginning with immediate reforms (Stage 1), followed by drafting and implementation of new legislation (Stages 2 and 3), income supplementation and full benefit adequacy (Stage 4) and ending with implementation of the new income security system (Stage 5).

Back on Track

In 1989, the Ontario Government proceeded to implement part of the first stage of the SARC reforms. This Advisory Group was formed in May, 1990 to provide advice to the Minister of Community and Social Services on new legislation and to build on the findings of *Transitions*. At the request of the new Government, we produced an interim report in March 1991 which focused on short-term reforms which could be accomplished quickly without legislative change. The report's title, *Back on Track,* was intended to signify that the momentum for reform had been rekindled.

Most of what was recommended in *Back on Track* was based on the first stage of SARC reforms which had yet to be implemented. Because these changes had to be made before new legislation was drafted, the report included only those actions which could be accomplished through regulation change and policy directive. This clearly limited the ability of the Advisory Group to tackle some of the broader issues in the system which require legislative change. But the fast-tracking of reform in this manner provided an opportunity to eliminate some glaring inequities, to provide immediate help to recipients in greatest need and to improve supports to employment. It also allowed some jump-starting of major initiatives to get ready for the next stage of reform, through pilot projects (opportunity planning) and consultations (Council of Consumers).

About two-thirds of the *Back on Track* recommendations were implemented by the government. The full-year cost was estimated at the time of the 1991 Ontario Budget to be $215 million, but increases in the social assistance caseload, caused by economic recession, have added to the cost estimates. The Minister also promised to act on the other issues raised in the report after further policy review. Although we would have preferred to see the entire report implemented, the Advisory Group was heartened by the extent to which the government responded favourably to *Back on Track* at a time of recession and fiscal constraint.

The government proceeded with action items which made the lives of recipients in greatest need a little better. For example, single parents receiving GWA received $63 more per month, and many boarders received about $70 more per month. Improvements were also made to allow people on social assistance who have some work income to keep more of what they earn as an incentive to stay in the workforce. Since that time, some much-needed changes in regulations were implemented to improve the fairness and consistency of the system.

The government did not resolve the larger question of provincial-municipal cost-sharing of social assistance, which has been at issue for a number of years, but it did attempt to relieve

current cost pressures on municipalities by providing $25 million in additional assistance to local governments. In addition, a provincial-municipal steering committee, chaired by the Minister of Municipal Affairs, has been established to try to resolve how to disentangle provincial and municipal funding responsibilities.

The government committed $16 million to improving and promoting control of social assistance by First Nations. Implementation has begun on a number of recommendations of the report of the First Nations Project Team, which accompanied *Back on Track*.

Work has begun on developing implementation plans for a Council of Consumers and for opportunity planning pilots projects – two building blocks of the new system. We would have liked these and other changes to happen more quickly, but at least they are happening. The Advisory Group has some concerns about specific actions which were taken in the wake of *Back on Track*. These concerns are mentioned where they arise in the context of the chapters which follow. Appendix I provides further details on implementation of the action items in *Back on Track*.

We are sensitive to the danger that the reforms implemented from *Back on Track* may be construed to be the sum total of the system changes that are needed. This is definitely not the case. As we have stated, most of the actions taken are only the initial stage of the Transitions reforms. They represent the lead-up to more far-reaching change through new legislation that would replace both the GWA Act and the Family Benefits Act with a redesigned and restructured system. The improvements to the system which have been achieved since 1989 must now be consolidated in new legislation.

Process and Participation

The Social Assistance Review Committee conducted public hearings across the province to elicit the views of all those interested in the future of social assistance. The Advisory Group has not attempted to repeat the SARC process, which was both comprehensive and in-depth, but we have built on the legacy of participation and involvement begun by SARC. Two outstanding features of the latest round of consultations for this report involved the extensive use of focus groups to hear the views of consumers and staff and the intensive policy analysis conducted by several project teams involving people with expertise from within and outside the Provincial government. (See Appendix 3)

Project Teams

The Advisory Group established project teams to provide expert advice on key issues. Most spent the better part of 1991 working on the issues within their topic area. Five Projects Teams presented reports to the Advisory Group to assist with decision-making for this report: Benefit Structure, Delivery and Funding, Disability Determination, Employment Services and Legal Issues. Another team, the First Nations Project Team, presented its report directly to the Minister. A seventh project team conducted an evaluation of the Supports to Employment Program (STEP). This team also issued a report at the same time as *Back on Track* for

presentation to the Minister. In this way, First Nations issues can be considered by the government concurrently with the work of the Advisory Group.

The other project teams involved not only people from several ministries within government, but also representation from interested and involved people from outside government. Those participating from outside government consisted of consumers, including sole support parents and persons with disabilities, municipal staff, and people from advocacy groups, unions, legal clinics and voluntary organizations. From inside government, there were policy and operations officials from MCSS and from other ministries. There were about 80 participants in the project teams, half from inside government and half from outside, who explored the issues and developed policy options.

There were consumers and social assistance staff who participated in project teams. But the Advisory Group wanted to expand participation by both these groups who have such a stake in the development of a new system.

Focus on Consumers

Thirty-four focus group sessions were held with consumers across the province. Approximately 400 consumers who are receiving social assistance or who identified themselves as being on a low income participated. More than 20 local grassroots organizations around Ontario assisted in organizing the focus group sessions. The Ontario Coalition Against Poverty, the Steering Committee on Social Assistance and the Clinic Resource Office of the Ontario Legal Aid Plan facilitated the process.

The focus group sessions were small, with usually about 12 participants, to allow for an informal and frank discussion. Participants were assured of confidentiality. They were provided with an orientation package to inform them of the general purpose of the consultation, but they were encouraged to set their own agenda for discussion. Accommodations were made to ensure full participation by people with a variety of disabilities. Six focus groups were comprised of persons with disabilities and personal interviews were conducted with several disabled recipients who expressed interest but who were unable to attend a group session. Of the 34 sessions, six were conducted in other languages: Chinese, Tamil, Spanish, Portuguese, Vietnamese, Farsi and Somali. By holding sessions in communities across the province, regional concerns were also taken into account.

Focus on Front-line Staff

The other group of people who have first-hand experience with how the system works are the staff who work in it. The Delivery and Funding Project Team organized a steering task group, comprised of MCSS staff, a representative of the Ontario Public Service Employees Union (OPSEU), a representative of the Canadian Union of Public Employees (CUPE), and a municipal administrator, to manage the staff focus groups. The Ontario Municipal Social Services Association (OMSSA) helped to organize municipal participation and the Operational Coordination Branch of MCSS helped to organize provincial office participation.

Five one-day meetings were held in Thunder Bay, London, Kingston, Sudbury and Toronto, involving a total of 78 participants. At these meetings, 29 MCSS district, area and local offices were represented, and 30 municipal administrations. At all the meetings, there was a representative from each of the unions. Efforts were made to ensure that a variety of staff positions and perspectives was represented. Participants were provided with an orientation package in advance, but participants were encouraged to set their own priorities for the day's discussion.

Public Consultation Meetings

The Advisory Group also conducted five public consultation meetings in October 1991. In advance of the consultation meetings, held in Toronto (2), Ottawa, North Bay and London, we released a short discussion paper called *An Invitation to Participate* in both official languages. Community groups assisted us in making the paper available in Chinese, Italian and Portuguese, the most frequently spoken languages in Ontario other than English and French. The paper outlined the major overarching questions arising from some 240 issues identified by the Legislation Development Section of MCSS, which provides staff support to the Advisory Group. Organizations which responded to our invitation to participate included: consumer groups, front-line workers, municipalities, advocacy groups, legal clinics, religious organizations, labour unions, social planning councils and business groups.

The Advisory Group

Since May of 1990, the Advisory Group has conducted 23 meetings spanning 58 days. The Advisory Group itself is representative of many voices in the Ontario community. We worked on a consensus basis, rather than voting on issues, so that this final report could be one that all of us can and do support.

Our membership includes a former recipient of social assistance who is now an advocate on behalf of consumers; a municipal social services administrator; a former member of organizations of and for persons with disabilities who is now with the provincial Office for Disability Issues; a United Church minister and anti-poverty advocate; a Grand Council Chief from the First Nations; a professor of social work; a representative of organized labour; a business executive; a lawyer active in poverty and equity issues; a community worker active in issues relating to immigrants, minorities and women; a Justice of the Peace and former member of the Social Assistance Review Committee; and a director of allocations and community relations with the United Way.

The consultations, project teams and focus groups provided the Advisory Group with invaluable assistance by giving us information, opinion and analysis to guide us in our decision-making. A number of reports have been generated from this process, including the working papers and conclusions of the project teams, the results of focus group discussions with consumers and staff and the consultation hearings. Appendix 5 lists all these reports. Appendices 2, 3 and 4 list the organizations which participated and, where appropriate, names the individuals who contributed.

We did not hear, nor did we expect, a consensus on all the major issues from all those who offered us their views. But we heard many constructive suggestions. We also heard, overwhelmingly, that the social assistance system continues to require reform. We heard many concerns about the way the system works or does not work – from consumers who feel victimized and angered by the system and workers who feel undervalued and overworked; from municipal officials worried about how to pay for their share of the costs, and from religious and other groups concerned about a publicly-supported system that institutionalizes poverty. We heard from Northerners about the problems created by a fragmented delivery system and from representatives of immigrants and minorities about problems with access to the system. We heard from persons with disabilities about their struggles to get the system to respond to their needs.

No one suggested that the system should be left as it is.

Social Assistance, Poverty and the New Welfare Math

"With a range of complementary, adequate, comprehensive and accessible programs – employment, income support, social supports and services all resourced and implemented, social assistance could well become a program of last resort. Until such time, however, social assistance will continue to be the essential program for those in poverty and need in this province."

Ontario Social Development Council

Introduction

The focus of the work of this Advisory Group is new social assistance legislation. That means, in effect, that our mandate does not have the scope to tackle poverty or recast Canada's income security system. Our task is to advise on the foundation of a new social assistance system within the existing context of legal and program arrangements.

Like the Social Assistance Review Committee, this Advisory Group would like to see alternatives to social assistance explored. *Transitions* made proposals that would transform the way Canada provides support for children, persons with disabilities and the working poor – outside the social assistance system. If only part of the longer-term vision of *Transitions* were implemented, a much different social assistance system would be created. A well-designed federal-provincial children's benefit, as proposed by the Social Assistance Review Committee (SARC), could move 41 per cent of the beneficiaries of social assistance off the system while providing a wholly different and innovative approach to income security for all families with children. The recently announced federal proposals fall well short of the SARC vision.

We have not abandoned pursuit of a wider solution that looks at programs beyond social assistance. In fact, we strongly support the *Transitions* vision and its commitment to a new direction and a new strategy to fight poverty in

Canada. There is some hope that discussions about a new constitutional accord for Canada could lead potentially to changes in the sharing of powers and a new configuration of social programs which might reflect at least part of the vision of *Transitions*. However, we cannot count on that happening.

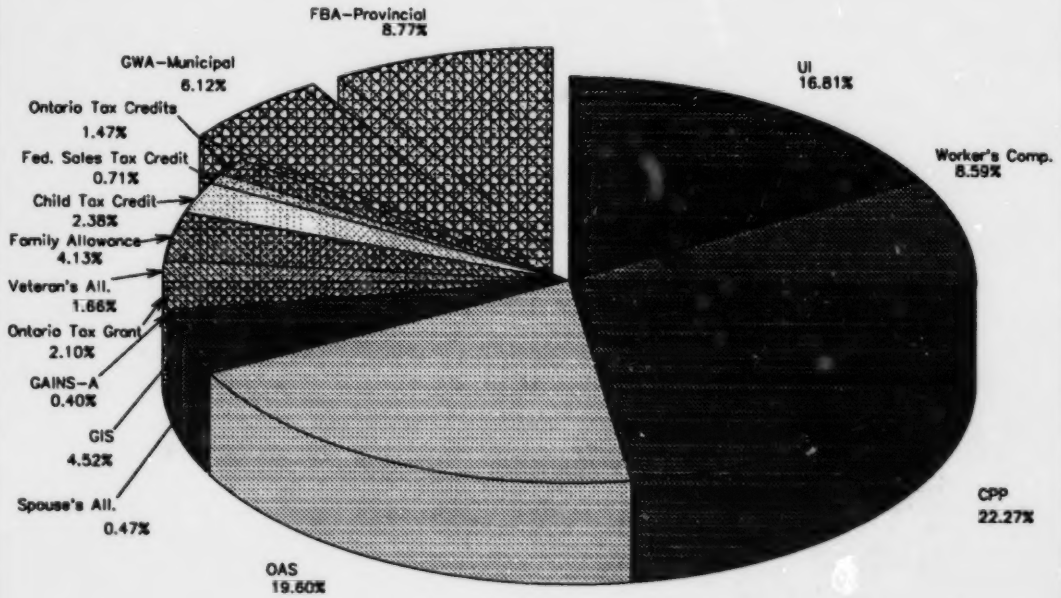
Like SARC, we do not want to risk losing the opportunity to rebuild Ontario's social assistance system while we wait for the country to devise a new social security system. Ontario must proceed now with its legislative overhaul of social assistance.

Social Assistance and the Economy

Social assistance is a relatively small piece of the income security system in Canada. This is true even now, at a time when unemployment has caused enormous increases in welfare caseloads. Figure 1 shows total cash transfers to Ontario residents in 1990-91: Social assistance (both GWA and FBA) accounts for about 15 per cent, compared to almost 17 per cent in Unemployment Insurance benefits, over 19 per cent in Old Age Security payments and 22 per cent in Canada Pension Plan transfers. Unlike these other transfer programs, however, social assistance is often singled out in public perception as the largest burden on the taxpayer, even though these other programs cost significantly more.

Figure 1

CASH TRANSFERS TO ONTARIO RESIDENTS
1990–91 TOTAL = $23,659,000,000



Social assistance primarily supports people who are out of work, ill, disabled or caring for children. The cost of providing this support is more unpopular with taxpayers than the cost of operating schools and hospitals, paving roads or building sports complexes. This attitude may stem from the perception that we all expect to share in the benefits of those other institutions and services, but only poor people use welfare. However, it fails to take into account the importance of maintaining individuals in times of financial crisis until they can again make a contribution to the workforce, and the necessity of providing for the well-being of children who represent society's future.

Full Employment

We live in a society in which most people support themselves through employment. In this sense, the most basic of welfare programs is full employment because it affords most people the opportunity to work and earn a living. In 1945, at the end of the Second World War, the Canadian government issued a White Paper on Employment which committed the federal government to the pursuit of full employment. This commitment was reiterated as recently as 1971 when amendments to the Unemployment Insurance Act were implemented. Canada was by no means alone; similar commitments were made by other governments in other industrialized countries.

The commitment to full employment reflects a certain view of the role of government in the economy and in society generally. It is a view which became popular in the Great Depression in the 1930s. The experience of hardship during that period led many Canadians to call for action to reduce the economic insecurity in their lives. The result was the establishment of the social programs which taken together are called the welfare state. With these programs, all Canadians became responsible for the well-being of others – for people they had never met – on the understanding that when it was their turn, those programs would be there for them too. Social programs created a kind of social citizenship.

In hard times, more people must depend on the programs supported by social citizenship. The economic downturn of the early 1990s is estimated to be the worst in Ontario since the Great Depression. The number of Ontarians receiving welfare (GWA) increased 50 per cent to 287,100 between 1990 and 1991. The number receiving family benefits (FBA) went up 20 per cent to 271,300 cases.

Many people view this spending as a drain on the economy, even when they see it as a necessary one. But there are economic benefits. As more money is paid out in social benefits, like social assistance, recipients spend the money they receive. They must eke out what they receive to pay for all their expenses – pay rent, buy groceries, children's clothes and so on. Business must produce the goods these people purchase. As business expands, more workers are hired, and those workers pay taxes which replenish the funds for social benefits. Social benefits and taxes help to smooth out the cycles of growth and decline that are characteristic of a market economy.

This was the approach to management of economies that dominated thinking in the post-war period. In this approach, social assistance is a last resort for workers who cannot find

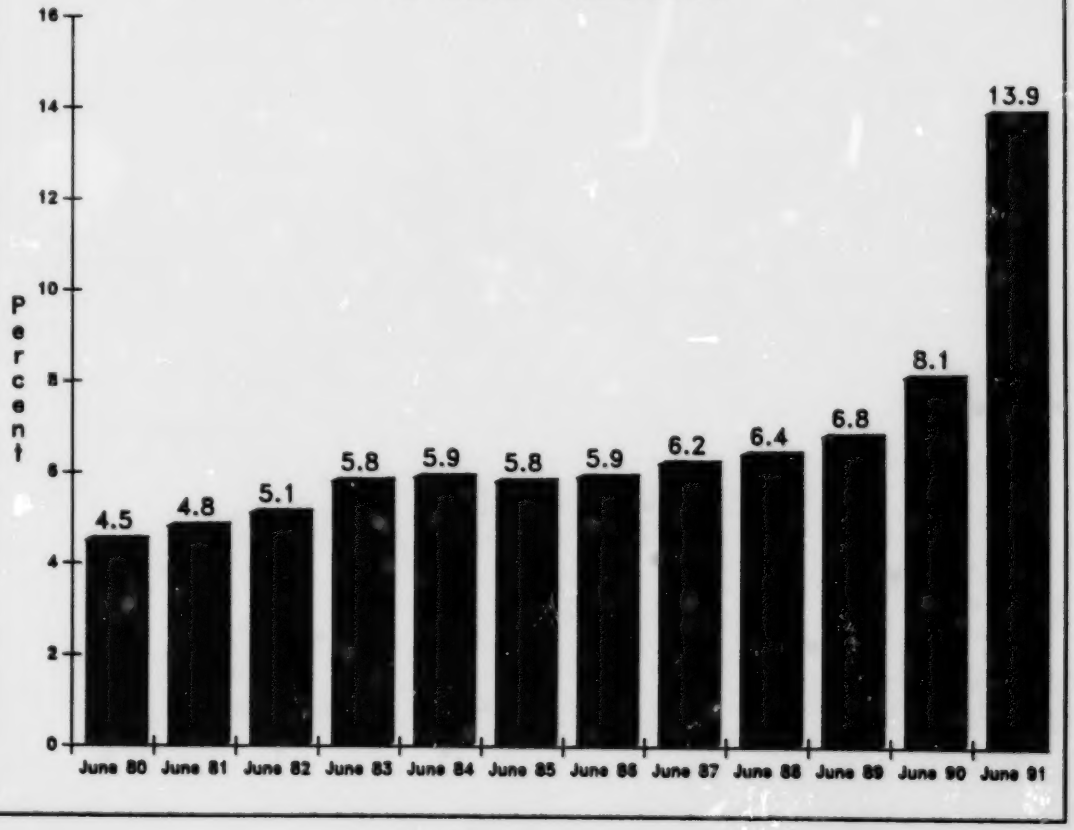
employment and who run out of unemployment insurance. In the 1970s, the picture changed. As a result of structural economic changes internationally and nationally, pumping more funds into the economy did not seem to be working. The social programs of the 1960s began to pay out more and more benefits, but governments did not collect enough revenues to pay for them. Deficits began to grow as governments abandoned the commitment to full employment. It was replaced with the commitment to reduce inflation to keep prices from rising too fast.

It became fashionable to believe that it is impossible to have full employment and low inflation at the same time. After the election of the 1984, the new federal government identified its main target as deficit reduction and low inflation. Investment in people and public facilities necessary for productive activity took a back seat. In this context, social expenditures were seen as part of the problem, not part of the solution.

Unemployment is high in most parts of the country in 1992. In these circumstances, it is not surprising that the number of people receiving social assistance has been rising steadily. Increases in social assistance costs are not the cause of economic or fiscal difficulties, but the result of other economic and fiscal policy decisions.

Figure 2

Percentage of Ontario Population Under Age 60 on Social Assistance



Impact on Social Assistance

Demands on the social assistance system act like a bellwether for the economic well-being of the province. Currently, the number of people needing assistance reflects the hard times that Ontario is experiencing as it fights its way slowly out of a deep recession and struggles to adapt to structural economic change. There are more than a half a million people officially unemployed in Ontario, and many more who have given up looking and no longer appear in the unemployment statistics. Unemployment in Ontario increased by approximately 68 per cent between January 1990 and September 1991. The impact on people has been devastating. The impact on the social assistance system has been substantial.

In our interim report, *Back on Track,* we documented the size and makeup of the social assistance caseload. The change in a year is marked. Figure 2 shows the percentage of the Ontario population under age 60 receiving social assistance in June 1991, compared to a year earlier. The growth from 8 per cent in 1990 to almost 14 per cent in 1991 is overwhelmingly the result of one factor – unemployment.

The Unemployed

Figure 3 shows the reasons why people are receiving social assistance. In January 1992, the unemployed made up 36 per cent of social assistance cases (the case count does not include beneficiaries such as children). By comparison, approximately one year earlier, in December 1990, the unemployed made up about 25 per cent of the cases. When the Social Assistance Review Committee looked at the statistics, the unemployed represented barely 20 per cent of cases in 1987.

An increasing portion of the unemployed on assistance are people who have run out of Unemployment Insurance benefits. The number of people who exhausted their unemployment benefits in October, 1991 was almost 38,000, a 164 per cent increase over the previous year. Unlike the previous recession in Ontario in 1982-83, most of the layoffs in this recession have been permanent. Businesses have downsized their operations and plants have closed. Long-term unemployment, which includes people who have been out of work for longer than six months, has substantially increased. Workers with limited education have been particularly hard hit by unemployment; people who have not completed high school represent less than 30 per cent of the workforce and over 40 per cent of the unemployed.

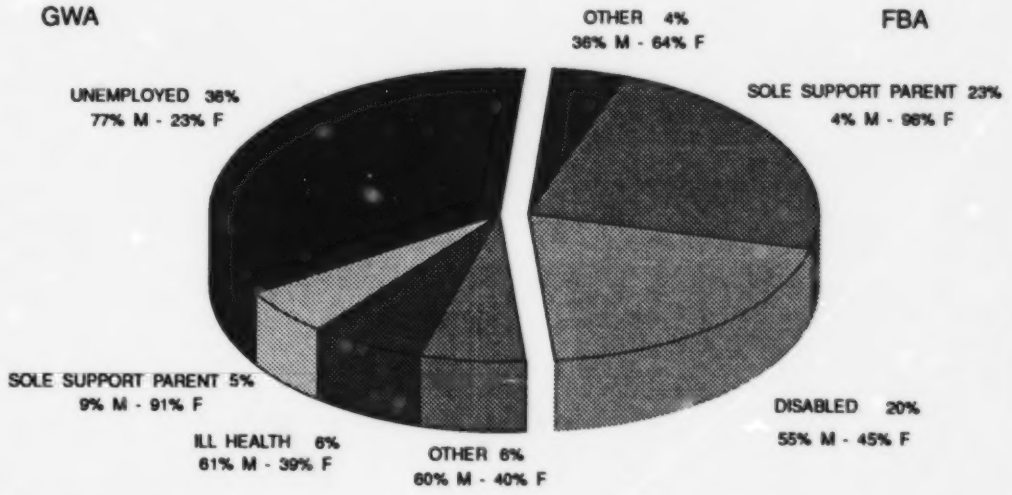
There will have to be new jobs created to reduce the unemployment rate and reduce the number of employable people on social assistance. For those who are job-ready, a growth economy should provide them with their ticket out of the system: a new job. For some recipients who have limited education or whose skills do not match the job requirements of the restructured Ontario economy, it will be harder to find employment. Many of these people have long job histories in what were supposed to be stable, well-paid manufacturing jobs. But changes in the economy have drastically altered their job prospects, and many will need educational upgrading and retraining tc compete in the employment market of the 1990s.

The economy must produce the employment opportunities that people need to be able to leave social assistance. If there are no jobs available, the system will have increased expectations for which there are no corresponding opportunities. If there are some jobs available, but the barriers to employment for social assistance recipients are such that recipients are denied the chance to be hired, the system will have increased expectations for which there are no corresponding opportunities. Barriers to employment include the effects of systemic discrimination and the scarcity of appropriate training and affordable child care.

Figure 3

REASON FOR BEING ON ASSISTANCE JANUARY 1992

Total FBA and GWA Caseload: 582,394



NOTE: Disabled includes WIN.

Families with Children and People with Disabilities

Figure 3 also illustrates the other groups which make up the social assistance caseload. People who are ill or disabled make up 26 per cent of the cases, and sole support parents another 28 per cent. The categories marked as other on the pie chart include payments to foster parents, parents of handicapped children, and assistance to elderly people who are not eligible for Old Age Security.

There are more children depending on social assistance than ever before. (See Figure 4) In December 1990, there were 338,200 children living in families on social assistance. That represented a sharp increase from the September 1987 total of 205,000 reported in *Transitions*. By October, 1991, the number of children who were beneficiaries of social assistance totalled 426,500, more than double the number from four years earlier. One in every six children in Ontario is in a family receiving social assistance. About three-quarters of

them are children of sole-support parents, the vast majority of whom are women. Child poverty in Ontario is also on the rise; in 1990, it rose by 34 per cent from 11.4 to 15.3 per cent, according to Statistics Canada.

Figure 4

SOCIAL ASSISTANCE BENEFICIARIES BY FAMILY STRUCTURE

JANUARY 1992

Social and Policy Changes

The economy is currently the major determinant of the makeup of social assistance. However, there are other social and government policy changes that have had, and continue to have, an impact on who receives assistance. There were steady, although not nearly so steep, increases in the numbers of people depending on social assistance during the latter half of the 1980s when economic growth was relatively strong. Social factors, such as the incidence of family breakdown or the percentage of the population who are disabled, affect the numbers of sole support parents or persons with disabilities who may need social assistance. But government policies and programs have a more significant impact on the caseload than social or demographic trends.

An example is the provincial government policy which has led to the closure over the last few years of a number of large institutions across the province. The intent of de-institutionalization is consistent with the philosophy of community living which is supported by many advocacy and self-help groups involving persons with disabilities who demand the right to full participation in society. However, the implementation of this policy has meant that many former residents now have few resources or supports in the community, other than social assistance.

When restraints hit support programs like student assistance or subsidized child care, fewer people are able to leave social assistance because they cannot afford to upgrade their education or they cannot afford to take a job without child care. Improvements in other programs can also have an effect; for example, provincial government efforts to ensure that more sole support mothers get the child support to which they are entitled should reduce dependency on the system.

We have mentioned the increase in people exhausting their Unemployment Insurance benefits. Restrictions in this federal program over the last few years have forced more people to look to social assistance for help. Refugee claimants who cannot get a federal work permit while waiting months or years for an immigration hearing have no other option but to apply for social assistance. Changes in tax thresholds and in social benefits by the federal government have made many lower-income families poorer. Without any financial cushion, they have no resources to tide them over in hard times and they are more likely to turn to welfare.

Some changes in the social assistance system itself have had an effect on caseloads. A change to eligibility rules has resulted in some fully-employed persons being able to receive some assistance from the system. We discuss the issue of supplementing incomes of the working poor in the section on the New Welfare Math.

The Minimum Wage

The idea of a minimum wage is that it is the floor of income necessary for the survival of an individual. The labour market does not distinguish between workers who support only themselves and those who support one or more dependants. This raises two questions. Is the minimum wage high enough to support an individual? Is there a way of ensuring that workers who have one or more dependants can support a family?

In the last 15 years, the minimum wage has been eroding in relation to the poverty line or low-income cut-off. In 1977, minimum wages were higher than the maximum social assistance for a family of four; today, they are only higher than social assistance for a single person.

Children's Benefits

The family allowance was originally introduced as the bridge between the wage earned and the income needed by a worker to support children. The value of the family allowance together with other child benefits (the refundable and non-refundable tax credits) has been eroded in recent years for all income categories except the lowest. The federal government now proposes to eliminate the family allowance as part of its new package of child benefits targeted at low-income families. Instead, a new child tax benefit will be created by putting these three benefits together into one monthly payment. For a family on social assistance without earnings, it appears that there will be no change in their child benefits.

Families have also been hard hit by changes in the economy which have reduced the number of middle-level jobs. The labour market is beginning to look more like an hourglass than the traditional triangle because the growth in jobs is either at the high-income end or the low-wage end. The number of mid-level jobs that would support a family are disappearing. The one factor that has kept many families above the poverty line is the increase in participation by women in the workforce. Most families need two incomes to survive.

The Fiscal Outlook

Much has been said and written in the last year or so about the escalating costs of social assistance. We agree that costs are a major concern. The Province has forecast that social assistance costs will exceed $6 billion in 1992-93. This is on top of a 48 per cent increase in costs in 1991-92. The major reason is that unemployment is expected to remain high and more people will run out of Unemployment Insurance and have to turn to GWA.

One of the major causes of the dismal fiscal outlook for the provincial government is the decision of the federal government to cap its contribution to social assistance under the Canada Assistance Plan. This move has resulted in a massive transfer of the federal deficit to Ontario.

Federal Policies

In 1990, Ottawa announced imposition of a limit of five per cent on spending increases under the Canada Assistance Plan (CAP), which is the federal-provincial cost-sharing program for social assistance, child care and child welfare. The cap on CAP was applied to three provinces, Ontario, British Columbia and Alberta, and was intended to be in place for two years. In 1991, the federal budget announced that it planned to extend the cap another three years to 1995.

The federal withdrawal from full and equal participation in CAP in Ontario has come at the worst possible time, with economic recession and restructuring causing a major increase in the number of people needing social assistance. The federal move will reduce its share of costs under CAP in 1992-93 from the 50 per cent share set out in the agreement to an estimated 28 per cent. The cap raised the Ontario government's share of costs by $1.6 billion in 1991-92 alone.

Taken together with restraints placed on cost-sharing for health and post-secondary education, the Province projects a shortfall in federal payments of $4.5 billion in 1992-93.

Federal policies in other areas have had an impact. In order to reduce its deficit, the federal government has been targeting social expenditures. Reductions in the indexation of the family allowance and the child tax credit began the process of shaving funds from the social expenditure budget.

Unemployment Insurance policies were changed to make the program more restrictive, thus effectively transferring more of the unemployed to welfare.

The pursuit of a high-dollar, high-interest rate policy has had the effect of containing inflation, but this policy has seriously limited the capacity of the economy to respond to the recession and to the impact of the Free Trade Agreement. As more companies have gone under or permanently laid off significant numbers of employees, unemployment has increased and the costs of social assistance have risen.

Municipalities

Municipal governments also share in the costs of social assistance. They are in a particularly tight bind in the current climate because they have been limited to a one per cent increase in transfer payments from the Province in 1992-93, but their statutory obligations to fund 20 per cent of GWA are growing at a much higher rate. To make matters more difficult, municipal governments are not allowed by law to run operating deficits.

Spending on other important programs and services is being curtailed by municipal governments so that they can meet their statutory obligations to assist people who are eligible for assistance. Social assistance caseloads rose by more than 100 per cent in some municipalities in 1991; the average increase was in the range of 70 per cent. Funding for such programs as Supplementary Aid, Special Assistance, subsidized child care, employment programs and grants to community agencies have been targeted for cutbacks by many municipal governments.

Poverty and the New Welfare Math

The Poverty Debate

Economic conditions and fiscal constraints have changed the climate for reform of social assistance. With taxes going up and other programs being squeezed to pay for welfare costs, the system has become even less popular than usual. Social assistance has become the centre of a public debate about poverty, the labour market and social policy. In many ways, it is an old argument about what kind of income support system this country should have for people who cannot support themselves for a period of time because of circumstances beyond their control. Unfortunately, the current debate has concentrated largely on how to constrain social assistance spending, thus attacking the results of Ontario's economic problems rather than the causes.

We believe that how society treats its most vulnerable members is a significant measure of the nature of that society. In many respects, Ontario has a tolerant and humane social system. Our society does not allow people to die because they cannot afford adequate health care. Our society shares the responsibility to ensure that all elderly people have the assurance of a certain basic income after retirement. However, society is becoming more tolerant of poverty and more intolerant of people who are poor. It is all too easy to become immune to the reality of the statistics – that one in six children lives in poverty – and to transfer unease about seeing homeless people on the streets into a fear of crime and a decline in the liveability of our cities.

We do not pretend to offer a solution to poverty. Our mandate is to recommend ways to turn the social assistance system around so that it can serve both recipients and the aims of society. At the same time, we can try to ensure, by recommending that social assistance provides for an adequate standard of living for people in need, that the system does not contribute to the problem of poverty. However, we are aware that there are those who want to go the other way, who believe that the way to fix the system is to make it more difficult to live on and more punitive.

Rejecting the Spur of Poverty

Some believe that life on social assistance must be made harder in order to discourage people from relying on it. The argument says that people need the spur of poverty to motivate them to leave public assistance. That argument is simply wrong.

It assumes, against all evidence, that people who are out of work are responsible for being unemployed. It assumes that most people make social assistance their lifestyle of choice. The statistics do not bear this out. On average, people who are categorized as employable on GWA are spending about six and a half months in the system at a time of high unemployment. Sole

Table 1

Social Assistance Rates
January 1992

Recipients*	Monthly Maximum Shelter	Monthly Basic Needs	Monthly Total	Annual Total
1 adult (GWA)	$400	$246	$646	$7,752
1 adult (Disabled - Boarder) (FBA)	n/a	$701	$701	$8,412
1 adult (Disabled) (FBA)	$400	$511	$911	$10,932
1 adult, 1 child (under 12)	$625	$563	$1,188	$14,256
1 adult, 2 children (both under 12)	$680	$671	$1,351	$16,212
1 adult, 2 children (1 under 12, 1 over 12)	$680	$722	$1,603	$19,236
1 adult, 2 children (1 under 12, 1 over 12) (GWA)	$750	$671	$1,411	$16,932

* Renters and owners, unless otherwise noted

support parents average four years, and persons with disabilities six to seven years. Social assistance is a temporary situation for most people because of life circumstances. It is not a permanent condition, nor would they want it to be.

That argument also assumes when the average family income in Ontario is $60,600 that living on social assistance offers an attractive lifestyle for people who could be working. Table 1 shows social assistance rates as of January, 1992. A single person on GWA, receiving the maximum amount for shelter receives $646 per month. A disabled adult on FBA who boards receives $8,412; a disabled adult who rents or owns accommodation receives $10,932 a year. A single-parent family with two children under 12 receives $16,212 a year on GWA. A sole support parent with two children, one under 12 years and one older, receives $16,932.

Table 2, in contrast, shows the amounts people receive in their hands. The reason the amounts actually paid are lower than the rates in Table 1 is that recipients have either other income sources (e.g. earnings, CPP, child support) or shelter costs lower than the maximum.

Table 2

Average Social Assistance Cheque Amount by Family Size, January 1992

Family Size	Combined FBA & GWA
1	576
2	870
3	962
4	1,072
5	1,178
6+	1,346
Total	759

Note: Regular cheques only. This does not include other special payments.

Table 3

Gross Income of Ontario's Social Assistance Recipients

Gross Income	Number of Cases	Percent
$0	398,173	69.4%
$1-10,000	135,040	23,5%
$10,001-20,000	34,984	6.1%
$20,001-30,000	4,757	0.8%
$30,001 Plus	489	0.1%

Note: "Gross Income" includes all outside income other than Ontario social assistance, not only earnings.

Table 3, illustrates that the number of persons with outside income is comparatively low. Almost 70% have no outside income. Another 23.5% have income under $10,000 while less than 1% have income above $30,000. Two important observations need to be made concerning those with outside income over $30,000. First, they receive very little money from the system because their outside income reduces their cheque. Second, these recipients invariably have larger families with young children in childcare.

Table 4, illustrates the same points in relation to recipients with earnings. As some recipients have said to us, any income support program is better than none. But they have documented the hardships and humiliations experienced by people who rely on the system and who are stigmatized for being poor and dependent. They are often intimidated and alienated by the system. Some are reduced to begging for necessities, like funds for a wheelchair. An estimated one-third of them turn to food banks regularly to feed themselves and their families.

In our view, ensuring that people reside in poor accommodation, eat poorly, dress poorly and live poorly only helps to ensure that they will be increasingly unhealthy, discouraged, malnourished and estranged from the rest of society – all of which makes it harder for them to reintegrate into society and secure employment, harder to hold families together, make a decent home for their children and plan for a better future. It is a tribute to the stamina and determination of many recipients that they manage to emerge from the experience with a positive attitude and find their way out of the system in spite of the obstacles.

New social assistance legislation must create a system which empowers people to make the transition to self-sufficiency and life in the mainstream of the community. This is a goal that everyone seems to support. But living at a subsistence level turns life into a series of financial crises. It does not empower people to make the transition to full-time employment if

Table 4

Ontario Social Assistance Earners by Income Intervals

Income* Intervals	FBA & GWA Cases with Earnings, ** Dec. 91 #
Under $10,000	53,990
$10,000 - $14,999	14,990
$15,000 - $19,999	9,110
$20,000 - $24,999	3,050
$25,000 - $29,999	720
$30,000 - $39,000	280
$40,000 - over	70
TOTAL	**82,210**

* "Income" includes gross earnings and all other sources of income, and excludes social assistance cheques.

** The distribution is for social assistance cases with gross earnings only.

their children are hungry and they are worried about when they can go back to a food bank; if their phone is cut off so they cannot answer ads for work, or they have no money for the bus to go to job interviews.

We recognize, however, that there is resistance to social assistance reform. Changing the system will be neither easy nor popular. That is because it will require not only legislative change, but a change in attitude *to* the system and *within* the system. Changing laws is difficult enough, but changing values and overcoming misperceptions is an even bigger challenge.

The New Welfare Math

There are two popular misconceptions about the welfare system today. One is that there is an incentive to give up your job and go on welfare because it pays a substantial income. The other is that even if you are working and earning a fairly good income, you can collect full welfare assistance in addition to your earnings. Both are myths based on misunderstanding of what people receive in the way of assistance and how the system works. But this new welfare math is becoming accepted among the public, and should be addressed, not dismissed.

The Poverty Gap

We have already shown the rates paid to social assistance recipients in Table 1. If we compare social assistance allowances as of January, 1992 to Statistics Canada Low-Income Cut-Off (LICO) levels, adjusted for tax credits, income tax deductions and other payroll deductions, we find the following: The rate for a single employable person is less than half (49.9 per cent) of the low-income cut-off. For an employable couple with two children under 12, social assistance pays about 57 per cent of the LICO. A sole support parent with one child would be at 67 per cent of the cut-off, and a single disabled person would be at 69 per cent but the LICO does not include any of the additional costs of disability.

Income Supplementation

The other misconception has to do with income supplementation of people who are working. It is true that people who are working full time may qualify for a supplement from social assistance. But it is not true that the doors of eligibility have been flung wide so that all sorts of people can collect welfare, regardless of their income. Everyone must go through the eligibility tests that take into account liquid assets, income and financial needs. If a working family is eligible, after going through these tests, they will not receive the full social allowance. They will get a supplement, as low as $2.50 a month, and they may get access to some special needs benefits.

There are several reasons why income supplementation occurs through the social assistance system. As we have noted, the minimum wage has not generally kept pace with social assistance rates. There have also been changes in social assistance, in line with recommendations in *Transitions* and *Back on Track,* which advocated that people who work full-time should not be ineligible for assistance if they are in need. In addition, the Supports to Employment Program (STEP) was introduced in 1989 to remove some of the existing disincentives to work for people on assistance. The tax-back provisions and exemptions for working expenses under STEP were improved in 1991.

The main purpose of STEP is to make it easier for people on assistance to work their way off assistance. At the same time, it also helps working people in financial need to maintain their employment. The allowance paid to recipients who are working is reduced as their earnings increase. The effect of the tax-back rates and exemptions, particularly for people who have high child care costs, has been to raise the point at which outside earnings reduce social assistance to zero.

We have heard considerable concern expressed about the possibility that a lot of well-off Ontarians will be getting social assistance. We do not believe that social assistance should become an income support program for the middle class. In examining the caseload, we do not find that this is so. Table 3 also shows that the vast majority of social assistance recipients who receive income other than social assistance, receive less than $20,000 (gross) annually.

A Wider Solution

Both *Transitions* and *Back on Track* supported income supplementation for the working poor, but through a broader-scale program other than social assistance. On the other hand, both reports also supported income supplementation through social assistance as an interim measure until an alternative is developed.

We reiterate our position that there are better vehicles for assisting the working poor – such as through the tax system – than by making them eligible for a partial welfare allowance. However, until the market provides a liveable wage or until governments devise other ways to help the working poor, social assistance is the only program providing this help.

We urge the Province to pursue a comprehensive approach to poverty that addresses the causes, not just the symptoms. The government is committed to improvements in the education and training system, an expansion and reform of the child care system, a more aggressive approach to child support and a process to make the tax system fairer. If other programs and systems took on more of the burden of addressing poverty in our society, there would be less pressure on social assistance to fill the gap.

The government also has an important influence in debates over new options for federal-provincial relations. It has been actively supporting putting reference to social programs and national standards in Canada's Constitution. It must press for more concerted national policies on poverty.

A Unified and Principled System

Introduction

We began this report by saying that social assistance must be rebuilt from the ground up. The first premise for building a new social assistance system for the future is that it be a unified system. Today two Acts, the General Welfare Assistance Act (GWA) and the Family Benefits Act (FBA), govern two distinct and different programs within social assistance. The two programs are also administered differently. It was the first recommendation of *Transitions* that the two Acts be merged.

> *"We fear that unless our welfare legislation contains a clear and precise articulation of ... principles, that the legislation will be subject to interpretation based on other concerns rather than the need and eligibility of the clients."*
>
> Legal Assistance of Windsor

The idea of a unified system, legislatively, programatically and administratively, may seem to go without saying. But the premise must be established at the outset because it has real influence over our approach to social assistance in Ontario. The divided system is part of the mindset of the existing system. People are divided into two camps for the purposes of social assistance: GWA or FBA. There are different rules and expectations for recipients of the two systems. There are different delivery agents.

The second premise for building a new system is the need for consistent legislative direction. Neither of the two Acts has a statement of purpose or principles to guide the system. A strong philosophical foundation is necessary to tell people what the new system stands for and how it is expected to operate.

One Act – One Unified System

With the merger of the GWA and FBA Acts into a unified system, a major overlay of complexity will be eliminated. A system divided into two administrative and program streams is inefficient and confusing. The roots of

the two-tier system go back many years.GWA and FBA were intended to handle people with different needs: short-term and longer-term. Neither Act actually states this as an intent, but it is generally acknowledged as the reason for having the two-tier system which has existed since 1967.

The two tiers have undergone an enormous number of incremental changes over the past 25 years. In 1967, when the FBA was enacted, the benefits were almost identical. Today, there are many differences, most notably in the rates paid to different categories of recipients. Family Benefits provides assistance to single parents, persons who are disabled, blind or permanently unemployable for medical reasons, as defined under the Act, and some elderly persons. GWA provides assistance to all other eligible persons in need. Most people come to the system first through the local welfare office; those who are eligible for FBA are transferred to that program later. Some people who are found to be ineligible for FBA for a variety of reasons – perhaps they are ill, but do not qualify as disabled or permanently unemployable – may receive GWA for longer periods, even though GWA is supposed to be for short-term recipients only. GWA is delivered mainly by municipalities and First Nations communities; FBA is delivered mainly by the provincial government.

One of the reasons that the current system is so complex and cumbersome is that it is divided into these two tiers, each with its own legislation, regulations, policies, guidelines and administrations. New legislation must simplify the system by eliminating these separate tiers and creating one system for all persons in receipt of social assistance. There will be one program for social assistance, not two. There will be one delivery agent for social assistance in any given location, not two.There will be a common set of rules. A layer of confusion and duplication will eliminated from the system.

Direction 1:

- **New legislation should replace the existing General Welfare Assistance Act and the Family Benefits Act and create a unified program for all recipients of social assistance, with a single-tier delivery structure.**

Expression of Principles in Legislation

One of the reasons why there are so many misconceptions about social assistance is that the two Acts which have governed the system for the past 25 years are silent on the overall purpose of the system and the values which should underlie it.There is no mission statement.The system is essentially rudderless. It is not surprising that a system which has no explicit purpose or direction has developed a set of unwritten assumptions about what it should accomplish and how it should work.

Legislation should provide guidance on the purpose and values of the system.This will assist the people who administer the system and provide front-line services. It will influence the development of future regulations under the new Act. It will give applicants and recipients a sense of what they can expect from the system. It will also help the general public to have a better understanding of what social assistance is for and why it exists.

The *Transitions* report recommended that the legislation include a preamble which expressed the principles underlying the legislation, and that the essential elements of the new system should be found in the statute rather than in regulations and policy manuals. We support including a preamble in the new Act which embodies, in clear and simple language, the underlying values of the system. We believe this will provide a strong message about how the new system should operate. However, Section 8 of the Interpretation Act and case law limit the effect of legislative preambles. Preambles are to be used by the courts as a guide to interpretation of particular sections of legislation only in cases of ambiguity or uncertainty. Therefore, we wish to go further in specifying the purpose and rights embodied in the Act in a purpose clause at the beginning of the Act. This clause will state clearly the objective of social assistance.

Transitions provided a statement of purpose:

All people in Ontario are entitled to an equal assurance of life opportunities in a society that is based on fairness, shared responsibility, and personal dignity for all. The objective of social assistance therefore must be to ensure that individuals are able to make the transition from dependence to autonomy, and from exclusion on the margins of society to integration within the mainstream of community life.

We also considered inclusion of a Bill of Rights in legislation. However, we concluded that there was a risk of limiting or missing a specific right or entitlement in a Bill of Rights that attempted to sum all of them up in one statement. Instead, we believe that rights and entitlements should be explicitly stated in each section of the Act. For example, legislation should state clearly that applicants are entitled to written notice of reasons for rejection of their application, and an explanation of their right to appeal.

Discretion

Legislation should also provide clear criteria for decision-making in each section of the Act. These criteria should enhance clarity by speaking directly to the issues in each section. They should help to demystify the grounds for decision-making for recipients and give clear direction to those who make decisions.

One of the major concerns about the current system is its inconsistency. Rules are interpreted and enforced differently by different social assistance offices across Ontario. Services that are available in one place are refused in another. Leeway for discretionary decision-making is often wide because there are no specified criteria for making a decision, or the criteria which do exist are extremely vague, such as, the administrator must be satisfied that something has been done.

It would be impossible – and wrong – to eliminate all discretion in decision-making from the system. Judgments must always be made, based on individual circumstances. But the arbitrary use of discretion can be limited. Rules can be made clearer and simpler. Legislative criteria can ensure that when judgments are made, they are based on clear and consistent

direction.Criteria in legislation should circumscribe how decisions are made by setting out the basis for decision-making – what circumstances must be taken into account – in specific instances. In a number of instances throughout this report, we suggest what specific criteria should be used to make a decision.

Another way to limit the arbitrary use of discretion by the deliverer of service is to reduce the number of items and services that the delivery agent may choose to provide or not provide. This arises at other points in this report, but particularly in relation to items of special need which are provided mostly at the discretion of the delivery agent in the current system. In Chapter 9, we recommend that many items of special need be made special necessities in legislation, to be provided on a mandatory basis.

Direction 2:

- **New legislation should provide guidance on the purpose and principles of the system and the rights which people can expect to have fulfilled by means of:**
  - **a preamble stating, in clear and simple language, the underlying values of the system;**
  - **a purpose clause, in the body of the Act, stating concisely the fundamental objective of social assistance;**
  - **an explicit statement of rights and entitlements in each section of the Act;**
  - **specific criteria for decision-making in each section of the Act.**

Our Guiding Principles

The Advisory Group developed principles to help guide our decision-making for this report. For this, we turned to the principles developed by the Social Assistance Review Committee. The principles described in this chapter express the spirit of *Transitions*. They also reflect the goals we established for short-term reform in *Back on Track*. Taken as a whole, they represent the values that we believe should underlie a new social assistance system. Adapting our own version of the SARC principles helped us to focus the discussion of issues in this report. They did not always point to a clear-cut decision – principles sometimes compete with one another when it comes to applying them to a real dilemma. But the process of weighing which principle should take precedence helped us clarify the choices before us and recognize the values inherent in our decisions.

Society has a responsibility for the well-being of all its members. Individuals have a responsibility to contribute to society to the extent that they are able.

As a society, people have a mutual responsibility for each other. That collective responsibility is acknowledged and exercised through government. It is the basis of many social programs in Canada – publicly-funded programs that are made available to all,

regardless of ability to pay, or are specifically geared to assist the poor. As a nation, we have developed income security programs for the aged and a universal health care system so that everyone is assured of quality health care.

Social assistance is part of Ontario's income security system, but it has tended to be viewed as different from those other programs, as support that must be deserved or earned. The Advisory Group endorses the stance taken by *Transitions:* The support that society provides is not to be understood as a gift or privilege, nor as charity to the disadvantaged. Rather, it represents a right to which all members of society are entitled.

Transitions also stressed that individuals have a responsibility to become, with support where necessary, as self-reliant as possible and to contribute to community life. We see the obligation of the individual to take responsibility for his or her own life as the other side of the coin of mutual responsibility. If the whole of society has a responsibility for individual well-being, then individually, there must also be a responsibility for society as a whole. That translates into each person making her or his unique contribution to society's social and economic well-being.

The primary purpose of social assistance is to assist people who are in need. Need must be the sole criterion for providing assistance.

Assisting people who are in need is the primary reason for the social assistance system to exist. It is important to clarify this principle because the current system divides people into many different categories which presume different eligibility standards. People are made ineligible for assistance in the current system based on considerations that are unrelated to need. A new system must put its main focus on whether or not people are in need.

Social assistance must provide people in need with an adequate level of assistance to meet their basic needs for shelter, food, clothing and personal care.

Like *Transitions*, we strongly reject the notion that the spur of poverty is necessary to drive people to self-sufficiency. Poverty often has the opposite effect: It robs people of hope and undermines the self-esteem they need to take on the challenge of achieving self-reliance; it can isolate them from the wider community and put real opportunities beyond their reach. Social assistance rates must be adequate to ensure that recipients can buy nutritious food for themselves and their children; so that they can afford a decent place to live; so that they have warm clothing in winter and the personal care items needed for everyday life.

The social assistance system must empower individuals to exercise self-determination and must provide opportunities for self-development.

This implies a system that is, as the *Transitions* report described it, active, developmental and goal-oriented in its approach and its impact upon people who turn to it for help. Empowerment is a term that speaks to people's ability to control their own lives. It is bad enough to be poor; it is even worse to feel powerless to manage your own life, to determine your own goals and have the opportunity to meet them. Everyone should have the right and the responsibility to lead his or her own life.

The system of today has all sorts of rules that stand in the way of empowerment. Despite program improvements made in the years since *Transitions*, there are still serious disincentives hampering the transition to self-reliance. These disincentives are so strong that some people simply give up and feel penalized for trying to break out of their present circumstances. Emphasis must be placed on provision of realistic opportunities. Too often, people are directed to training or other programs which do not suit their individual needs and which do not lead anywhere.

For many people, relying on social assistance is a temporary situation caused by the loss of a job. But there are other people who may have to rely on social assistance over a long period of time, perhaps because a disability prevents them from working. For them, total financial independence may not ever be possible; however, they should still be encouraged to develop themselves and find ways in which they can lead a satisfying life and make a contribution to society. These people must not be forgotten in efforts to make social assistance a more transitional program.

Assistance must be made available in a fair, accessible and timely manner.

Allowances and benefits in the current system operate on a hierarchy of deservedness based on an unstated but powerful value judgment about which types of people are worthy of assistance and which ones are not. As we renew the system, we must not perpetuate these arbitrary and unfair distinctions between groups of people. Fairness also requires that assistance not be denied or reduced on arbitrary grounds. Administrative procedures should be clearly established and consistently applied.

Assistance must be readily accessible and it must be available within a reasonable period of time. Many people only go to the welfare office when they have no money and no food left. In this kind of emergency situation, a waiting period of days or weeks – as often happens today – is simply unacceptable. Accessibility also means that people who speak French must get the help they need in that language. Those who do not speak English or French must also receive help in understanding the system. It means removing barriers which limit the ability of persons with disabilities to use the supports and services of the system.

The social assistance system must respect the dignity of the individual and promote social equity.

There should be a concerted effort to combat systemic discrimination within social assistance and to advocate on behalf of recipients to overcome discrimination in society. The system itself is too open to decision-making based on arbitrary or discriminatory criteria based on race, gender or disability. Social assistance cannot itself put an end to racism or gender bias or discrimination against persons with disabilities in the wider community, but it must reflect the principle of equity within the system and it must promote affirmative responses to systemic injustice outside the system. We see the principle of equity as encompassing and going beyond a respect for diversity. Real equity recognizes that it is not enough to call for equal treatment of all persons.It has been established that equal treatment does not necessarily result in equal outcomes when there is systemic discrimination. Many recipients have not had a fair chance for training or in the job market. Mandatory employment equity should

begin to redress some of the barriers caused by systemic discrimination within and outside the system.

All recipients must be treated with respect. We have heard too many accounts of recipients who feel humiliated by a system which treats them like irresponsible children or assumes that they are to blame for being poor. Changes in the rules of the system, coupled with appropriate training for all those who work in the system, will go a long way to ensuring that the rights of recipients are protected.

The relationship between workers and recipients is crucial. Respect for the dignity of the individual and the goal of social equity must apply to those who work in the system, as well as those who use it. Many workers feel undervalued and over-stressed in a system in which they are expected to handle unrealistic client caseloads of up to 500 and more and then are criticized for being unhelpful or uncaring to their clients.

The social assistance system must strengthen community participation and community development.

One of the keys to empowerment of individuals is to enable and encourage people to work together. A community may be a community of interest, such as a consumer or self-help group or an advocacy organization; community may be a local neighbourhood or a housing co-op or a city. However community is defined, the concept should include enabling people to be involved and to participate. Community development involves enabling people to participate in decision-making that affects them and to seek cooperative solutions for community economic and social problems. In the social assistance system, recipients must have a role in influencing decision-making. Front-line workers must also be involved in making this a better system.

Being in receipt of social assistance does not automatically relegate people to the margins of society. However, many recipients experience poverty, discrimination and lack of opportunity, all of which contribute to ostracizing people from the mainstream. For persons with disabilities, the opportunity to be involved in community life may be prevented by physical and other barriers to participation. For residents of institutions, community participation may depend on finding the resources and the supports necessary to allow them to live in the community.

The social assistance system must respect the integrity of family life, as well as the needs of individuals.

In a fast-changing world, the family remains a cornerstone of society. The family is the unit within which children are nurtured; it is also a haven for adults who rely on and care for each other. The family, in all its many forms, has managed to evolve and adapt to the changing needs of people. However, we also recognize that there are families which cease to function, where there is fear and abuse. In those cases, the system must serve individuals who are at risk. But as a general principle, the system should support and empower families. The system now discriminates against families. Married couples receive less support than two single adults living together; adult children in need cannot get support unless they leave home; and

wives and children cannot get assistance if the husband is found ineligible, irrespective of their need.

The social assistance system must be consistent and understandable to the average person.

The current system, operating under two different pieces of legislation, is incredibly complex and often inconsistent. Many of the rules that govern how the social assistance system operates are in the regulations, rather than in legislation. The regulations, especially those made in recent years, often contain provisions that conform with outdated legislation and lead to further confusion and complexity. It is small wonder that both applicants and recipients are confused; even people who work in the system are often baffled by its operational intricacies.

The system must be simplified. But more than that, it must become a province-wide system, not a system of regional variations. It should no longer be the case that a person moving from one part of the province to another finds a whole new set of local rules for social assistance.

It is impossible to eliminate all areas of discretion in decision-making in the system; there will always be room for human judgment. However, discretionary programs must be kept to a minimum; much of what is now discretionary should be guaranteed by legislation. This will not only make the system more equitable across the province; it will also make it more coherent and understandable.

The social assistance system must be based on principles of due process and fundamental justice. All those who are involved in the system must be made aware of their rights and responsibilities.

Everyone in our society is entitled to due process and fundamental justice. It is essential that society protect the rights of all its members, including and especially those who are most vulnerable. There are a number of legal and rights issues that must be rectified in the system. Awareness of rights and responsibilities is crucial if those rights and responsibilities are to be respected and exercised. Both users and workers in the system must have the information they need to fulfil their obligations. This information must be available in a timely and understandable form.

The social assistance system must be efficient, open and publicly accountable for its effectiveness.

There are different kinds of accountability. For example, government must be accountable to the taxpayer for dollars spent on social assistance. Recipients must be accountable for compliance with requirements of the system – furnishing receipts for rent or child care, for example. However, there must also be accountability of the system to the consumer. If we say, for example, that the system is obliged to inform people of their rights, then the system must be accountable for providing that information.

For all these accountabilities, there must be monitoring and evaluation. There has always been a verification system to check up on recipients. The new system must also be able to demonstrate how it is accountable for its own efficiency and effectiveness. This must go beyond showing cost-effectiveness to demonstrating how the system is meeting its own objectives for standards of service delivery.

To promote an open system and to increase public trust in the system, there should be methods of reporting overall results of monitoring and evaluation to the public.

Social assistance must be part of a wider, coordinated effort to eliminate poverty.

Social assistance is an income support program. Our aim is to turn it into an income support program which meets people's needs adequately and provides opportunities for self-development. But the system will not be able to provide opportunities unless other systems are coordinated with this one to help reduce the social costs of poverty. Education and training opportunities for social assistance recipients and the availability of child care for parents who take training or get jobs are just two issues requiring that other systems respond to the need. There are many others. Employment and economic investment strategies must also be in place to complement efforts to make social assistance a springboard to independence for those who are able to achieve it.

Who Should Receive Social Assistance

"While morally some of us may believe that some of those in need of income assistance are more 'deserving', realism leads us to conclude that it would be impossible to fairly sort out who belongs in which category, and wasteful to try. Is everybody who is disabled or supporting a family 'deserving'? And on the other side of the coin, is somebody who is 'able-bodied' without dependent children and without a job automatically 'undeserving'? Which people are unemployed because they choose to be, and which ones are unemployed because they are victims of the recession? The cost of answering these questions will far outweigh any benefits derived from the answers."

Ontario Chamber of Commerce

Introduction

One of the fundamental issues that must be answered by new legislation is who should receive social assistance. In principle, we have answered that question. We stated in Chapter 4 that social assistance must assist people who are in need. But how should the principle be applied? Who should be eligible for assistance? The system must have a just and equitable method of determining eligibility.

In this chapter, we look at four separate issues: automatic exclusions, categories of eligibility, the benefit unit, and financial testing. For those who are not familiar with the current system, some of these issues may seem rather obscure. However, they are at the heart of the determination of who becomes eligible for assistance. How to establish the benefit unit on which social assistance eligibility is calculated is among the most difficult issues in social assistance to resolve. Eligibility issues tend to be more complex than they appear on the surface. As will become apparent in the discussion of the benefit unit, principles can compete with or contradict each other, and sometimes a principle cannot easily be put into practice.

Some of the debate over who should receive social assistance is driven by the peculiarities of the existing system. In the current system, there are all sorts of reasons – unrelated to need – which are used to deny assistance. It is important to look at why this is so and to determine if there are

any conditions or circumstances which should legitimately take precedence over the principle of need. The current system goes through three tests *before* it gets to the determination of financial need based on the applicant's income and assets.

Applicants may be disallowed for assistance at any step along the way.

- First, the system looks at whether applicants are automatically ineligible.
- Second, applicants are assessed to determine if there is a category into which they fit.
- If they pass that test, the third step is establishing the benefit unit.
- Then, and only then, are applicants' financial needs assessed, according to a set formula.
- This chapter looks at each the above four tests in turn.

Automatic Ineligibility

The first order of business for the current social assistance system is to look at whether an applicant is automatically ineligible. That means that some applicants are automatically denied assistance before the system concerns itself with whether or not they fit a category of assistance or before a financial needs test is conducted.

There are a number of circumstances under which people are automatically excluded from receipt of social assistance. But there are fewer than there used to be. As a result of *Transitions* and *Back on Track,* some changes have been made to the regulations to reduce the automatic exclusions. For example, in the past, a person without a permanent address was ineligible; the guidelines have been clarified so that homeless people can receive social assistance. Residency requirements also excluded people applying for landed immigrant status as refugees, until policies were changed so that refugee claimants were no longer automatically ineligible. However, other grounds for automatic exclusion remain, and some have recently been reinforced. A regulation change in October, 1991, for example, reiterated that some categories of self-employed people are ineligible for assistance, regardless of need, contrary to the spirit of both *Transitions* and *Back on Track*. Further, we have heard that applicants for landed immigrant status under humanitarian and compassionate grounds have been declared ineligible.

Automatic ineligibility is often used to keep overall costs of the system down by reducing the number of people who might be able to get social assistance. Sometimes, the rationale for exclusion is related to the pursuit of certain social values, like keeping young people in school. In our view, automatic exclusions are, on principle, unjustified because they are not related to need, but to other circumstances of a person's life. An automatic exclusion from assistance may represent a most unfair pre-judgment of someone who is in desperate circumstances. People should be able to make an application for assistance; they may not be eligible for assistance, once their income and needs are assessed, but they should at least have the right to apply. In new legislation, automatic ineligibility for persons living in Ontario, or those who reside in Ontario and who have legally petitioned to remain in Canada, should be eliminated. Removal of automatic exclusions will simplify the system, and make it fairer.

Having established the principle that everyone should have the right to apply for assistance, we recognize that there should be a special response by the system to certain situations. These include people involved in labour disputes, youth aged 16 and 17, young adults up to age 21, and people who are self-employed. In each instance, we propose ways for the system to respond.

People Involved in Labour Disputes

Transitions opposed automatic ineligibility in the social assistance system, but suggested that labour disputes could be a possible exception to the rule. The issue of whether people who are on strike or locked out should be excluded from receiving assistance, without consideration of need, is a difficult one. The major principle here for us is that we do not want social assistance to become a factor in labour disputes. Many unions provide only nominal strike pay; if there were no restrictions on eligibility for social assistance, many people involved in a labour dispute could be eligible for assistance. Potentially, social assistance could become the equivalent of a strike fund, maintaining workers financially for the duration of the dispute. This could have the effect of prolonging the labour dispute. Some union representatives have said that allowing strikers to receive social assistance may undermine worker solidarity during a strike or lockout.

The issue is not cut-and-dried, however. Social assistance is supposed to respond to people who are in financial distress, and often strikers and their families suffer hardship because of reduced income. They may have to resort to food banks, and some may lose their homes. In the current social assistance system, some municipalities allow striking workers to receive emergency short-term assistance for two weeks or a month, but this does not happen everywhere. Some offices allow families of strikers to apply for assistance as a separate unit. That way, short-term assistance may be provided to one parent and the children, but not to the striking worker.

Many unions have their own special funds to help out those who are in emergency situations during a labour dispute, and we would expect that this practice would continue. But social assistance should take action when the person cannot get sufficient support from other sources to avoid an emergency situation. The support that social assistance provides should be limited to emergency, short-term assistance. By that we mean responding to situations where there is immediate risk of people becoming homeless, having their heat and hydro cut off, or going hungry. We describe the conditions for receiving emergency assistance in Chapter 9 on special needs. There must be specific criteria setting out what constitutes an emergency, but in each particular situation, the local social assistance office will have to exercise discretion to decide whether providing emergency assistance is warranted or not.

A related issue that has been brought to our attention involves the possibility that strikers could lose benefits that they were already receiving from social assistance prior to a labour dispute. For example, recipients who are working and who are in the Supports to Employment Program (STEP) could potentially be involved in a labour dispute. The reason that they are receiving assistance is because they are not earning enough to get off assistance yet. Those

persons should continue to receive their social assistance benefits during the dispute on the same reduced basis, as if they were working, and not a higher amount.

Self-Employment

People who are self-employed are currently ineligible for assistance. We do not believe that people should be denied assistance on the basis of how they make a living. When the economy goes into a slump, many self-employed people run into financial difficulties, at the same time as many others lose their jobs. Source of income – generated by a small business rather than through earnings from wages – should not be a reason to bar someone outright from being considered for assistance when they are in need.

Some self-employed people are owners of what are known as micro-businesses, which are very small operations with little in the way of capital investment. These people often provide services out of their own homes. They may cook, write, sew, design or make crafts for sale. For many of them, income is intermittent. There are other small businesses, like farming, which require substantial investment in equipment and supplies (we refer to treatment of assets in the Financial Testing section of this chapter) and which are vulnerable to economic pressures and subject to income fluctuations. For purposes of social assistance, income calculations may be more complicated when the person is self-employed, but it should be possible, as we suggested in *Back on Track,* to develop a consistent set of province-wide guidelines covering assessment of self-employed income. These guidelines would help staff to get a reading on the person's financial situation.

Innovative small businesses are the major source of new employment in the Ontario economy. Not only should self-employed people not be prevented from applying for social assistance, but the system should also recognize that self-employment is a good way for some people to leave assistance. The system provides incentives to people to work while they are receiving some assistance so that they can work their way off assistance; the same encouragement should be given to people who find ways to earn income in their own businesses.

Youth Aged 16 and 17

In the current system, young people aged 16 and 17 who leave home are ineligible for social assistance unless a welfare administrator decides that there are exceptional circumstances. There are no regulatory criteria for making such a decision. Many young people are simply turned away from local welfare offices as soon as they say how old they are. Some do not go back home because the conditions at home are intolerable for them; instead they head for the streets.

We find it unacceptable that the social assistance system should turn its back on young people seeking help without looking into the circumstances of why they want to live independently. It may be that the young person is simply rebelling from parents who are trying to set some reasonable limits on behaviour. But it may also be that the young person is being abused or it may be that the family unit has for all intents and purposes disintegrated.

One of the confusing aspects of dealing with older teenagers is that the law is equivocal. According to the Age of Majority and Accountability Act a person is an adult when he or she reaches the age of 18. However, under the Family Law Act, there are circumstances under which they can be seen as withdrawing from parental authority, which affects the obligation of parents to support them.

In *Back on Track,* we proposed that the onus to establish special circumstances be reversed – the system should have to establish that there are special circumstances for denying assistance to these young people, rather than requiring the applicant to show that there are special reasons why assistance should be provided. This is one way of giving young people the benefit of the doubt when they approach the system for help. We reiterate that the onus should be on the system to respond. But rather than the system having to supply reasons to deny assistance, it should take the initiative to make a special assessment of any applicants aged 16 or 17. This assessment should focus on the circumstances of the young person and the family and the reason that he or she is seeking to live independently. This assessment will require more than a few cursory questions to the teenager because many people cannot talk easily about conditions within the family, particularly where there is abuse. If necessary, there may be provision of emergency short-term assistance while the assessment is made.

Young Adults Under 21

Society's confusion over when a child should officially become an adult is reflected in provincial legislation, including social assistance law. More than 20 years ago, Ontario changed its age of majority and accountability legislation from 21 to 18.

However, the age when someone can apply for social assistance in his or her own right is still 21 in some circumstances. This anomaly must be rectified when new social assistance legislation is drafted.

Young people living on their own can apply for GWA at age 18, but young adults under 21 are ineligible if they are employable, non-disabled and living at home. This means that if a family is in financial difficulty and cannot support a young adult, he or she may have to move out in order to receive assistance as an independent adult. The system in effect may act as an incentive for young people to leave home before they are ready. Under FBA, a young adult under 21 may continue to be included as a dependent child in the family as long as he or she continues to go to school. FBA does not provide assistance for children who do not attend school. This is one of those instances where social assistance is being used to promote other social values. Keeping young people in school is an excellent aim, but policing school attendance should not be a function of social assistance.

We looked at the situation of young adults under age 21 from two perspectives. The first involves a young adult living in a family which is receiving social assistance. To help families stay together as long as possible, despite financial pressures, we propose that young adults under age 21 living in families in receipt of social assistance should be eligible to apply for assistance as adults in their own right. Eligibility should not be tied to school attendance.

The second perspective involves young adults who are not disabled and who are living in families not in receipt of social assistance. Under Family Law, the parents may have no legal support obligation. However, if a young adult wishes to receive social assistance, the income of the parents must be assessed. Otherwise, young adults who have no income of their own, but who live with relatively wealthy parents, could get social assistance. This would contradict the principle of meeting need.

This proposal differs from what we proposed in *Back on Track,* where we concentrated mainly on trying to help young adults who return to the family home after having lived independently for a period of time. We believe that this new proposal will cover instances where the family and the young adult are in financial need.

We make a special point of recommending that school attendance not be grounds for ineligibility for dependent children. FBA now makes them ineligible. Some children drop out as early as age 16 and then return to school after a certain period; they should not have to leave home in the transitional period. Many families on social assistance cannot afford to keep the child at home once the child's benefits are deducted from the allowance paid to the family.

Direction 3:

- **There should be no automatic ineligibility for social assistance. Applications must be taken to assess need. However, special circumstances should be taken into account in certain situations.**

- **People involved in labour disputes should be considered only for short-term emergency assistance to alleviate hardship. Social assistance benefits received before the onset of a strike or lockout should be maintained during the dispute.**

- **Self-employment should no longer be a reason to exclude a person from applying for social assistance. A consistent set of province-wide guidelines covering assessment of self-employed income should be developed.**

- **The system should conduct a special assessment of the circumstances of young persons aged 16 or 17 who apply for social assistance to determine why they are seeking to live away from the family home.**

- **Social assistance legislation should conform to the Age of Majority and Accountability Act by recognizing 18 year-olds as adults. Young adults under 21, who are non-disabled and living in the family home, should be eligible for assistance as adults in their own right if the family is in receipt of social assistance or if an assessment of parental income demonstrates need.**

- **Lack of school attendance should not be grounds for ineligibility of dependent children in families receiving social assistance.**

Social Assistance Categories

The General Welfare Assistance Act and the Family Benefits Act define people who may receive assistance by categories or target groups. Once applicants leap the hurdle of automatic ineligibility, then they are assessed to see into which category they may or may not fit. The category labels who people are, as far as the system is concerned – they are employable, temporarily unemployable, permanently unemployable, disabled, or a single parent, for example. This exercise precedes any needs testing. There is a bewildering array of legislated categories of recipients and numerous sub-categories. Thus the level of complexity in the categorical system is exceedingly high.

One of the consequences of the category system is that it has become infused with value judgments about people, about whether they are considered to be deserving or undeserving of assistance, the authors or the victims of their own impoverished circumstances. This is what *Transitions* called social labelling. It has led to some categories of recipients receiving higher allowances and benefits than others, regardless of need. This kind of categorization of people is unfair and unacceptable. Categories have also led to a mislabelling of people in terms of their capabilities. Labelling a disabled person on FBA as permanently unemployable sidelines from the employment market many very able people who would like to work in spite of a disability.

We reject any categorical differences based on reasons unrelated to need, such as perceptions that some people are more deserving than others. We accept that the system may retain some categories, as long as they are based on differences in need. Applying the principle of need to the categorical system will make social assistance fairer by eliminating arbitrary distinctions between people. It will also make the system simpler and more understandable.

Persons with Disabilities

We considered what categories could be justified on the basis of need. One category which deserves special attention is that of the disabled. Persons with disabilities must overcome a whole range of obstacles in daily life. For most disabled people, the barriers are those of discrimination. Many buildings are still not accessible to people in wheelchairs. It is more difficult for disabled people to find appropriate housing, either because there is no accommodation of special needs or because owners do not want to rent to someone with a mental or developmental disability. It is more difficult for people with disabilities to get training or be hired, in competition with the non-disabled.

Persons with disabilities face additional challenges and have additional expenses. There is greater wear and tear on clothing when people have to spend their days in a wheelchair. People who are blind require equipment or someone to assist them with reading at home and at work; people who are deaf need sign language interpreters to function independently in the

community. Many of these costs are paid for out of the disabled individual's own pocket. People with disabilities often have higher food costs because they cannot get to discount supermarkets. Social assistance provides a drug card to cover prescription drugs, but persons with disabilities often have other, ongoing medical expenses which are not covered by other programs.

Organizations representing persons with disabilities say that the systems which are supposed to be helping them are failing them. Special programs for the disabled are not available everywhere or to everyone. There are long waiting lists for vocational rehabilitation. Programs which help pay the costs of essential health items, such as assistive devices, are not meeting the current demand. In the social assistance system, two programs which provide for special needs for recipients – Supplementary Aid and Special Assistance – are being curtailed by many municipalities because of budget constraints. People with psychiatric conditions call themselves survivors, not consumers, of social and health services.

On the basis of need, there is justification for having a social assistance category for persons with disabilities. If there is no separate category, people with disabilities will be at the back of the line in this system, as well as elsewhere. If there is no category for them which provides additional funds above the basic allowance, they may be worse off than they are now. In the current system, those who are categorized as disabled or permanently unemployable under FBA receive the highest allowance of all recipients. Many still suffer hardship and cannot afford to buy necessities such as gastro-urinary supplies within the limitations of their allowance.

We advocate a system that provides an adequate allowance for all. But we recognize that what is adequate for a non-disabled person may not be adequate for a disabled person. Therefore, we recommend that a category for persons with disabilities be part of the new system. This category must provide an additional amount on the basic allowance in recognition of increased need. This supplement must be provided to all those who fit the category. The definition of disability and the determination process are discussed in the next chapter. SARC supported a separate category for the handicapped. The only other categories it proposed related to opportunity planning. We discuss opportunity planning in Chapter 7, but we do not recommend tying it to categorical eligibility.

Reducing the number of categories to two does not mean that there should be no recognition by the system of the special needs of people other than those with disabilities. We believe that those needs can be met through benefit programs, rather than through categorical eligibility. We recommend retention of additional special benefits for children, such as the back-to-school and winter clothing supplements which are provided once a year. These and other special needs are discussed in Chapter 9.

We would have liked, theoretically, to abolish all categories in social assistance. That would have sent the clearest message about abolition of a hierarchy of deservedness that underlies the current system. But we believe that the principle of need must be acknowledged in a category for people with disabilities. We are not saying they are more deserving of assistance; they simply, as a group, have greater needs.

Direction 4:

- **Based on the principle that there should only be categories of eligibility based on need, the number of categories should be reduced to two: persons with disabilities and all others. The separate category for persons with disabilities should recognize their additional needs through a supplement to the basic allowance.**

The Benefit Unit

The next step in the eligibility process is determining the benefit unit, which is the unit on which need for assistance is based. It is important to understand that determining the benefit unit is separate from the process of financial testing. Finances are looked at *after* the benefit unit is established.

Why have a benefit unit? The purpose of having a benefit unit is to establish who ought to meet need before the system or the state should be responsible. The question which is asked in determining the benefit unit is: On whom are you dependent? The reason for asking this question is that there may be someone else who is providing you with the necessities of life, and this affects whether or not you are in need.

The benefit unit could be defined by household, that is, whoever resides with the applicant within the same set of bricks and boards. The definition could be spousal, where the person is or has been cohabiting with a person of the opposite sex. This is the definition which is used most often in social assistance legislation. The benefit unit could also be defined to include other relationships, such as relatives (grandparents, uncles, siblings) or friends.

Whenever the benefit is defined in any of the above ways, the system is making an assumption of dependency. There is another alternative: The system could treat everyone as an individual, without regard to any relationships with anyone else. This approach assumes that no one has prior obligation to meet need before the state takes on the responsibility. It makes no assumptions about dependency.

In considering the definition of the benefit unit, we looked at the issues from three different perspectives: reality, society and legality.

The Reality Test: Do the definitions reflect the reality of the way people actually live? Society's Expectations: Do they reflect the expectations of society about when people should support each other? How are they affected by expectations of what social assistance should provide?

Support in Law: Are there support obligations in law which should be discharged before social assistance pays? Can legal obligations be used as a proxy for dependency?

The Reality Test

Whichever one of these definitions is chosen, there will be cases where they do not correspond to real life.

The definitions which make assumptions of dependency – by looking at the people in the household, spouses or other relationships inside or outside the family – will all run contrary to reality in certain instances. The benefit unit may assume, for example, that someone living with an applicant is contributing to the household finances when that person is actually not providing anything.

Insofar as the assumption is different from reality, there will be some unfairness as an unintended consequence. There will be cases where a person does not have the necessities of life and still does not fit within the assumptions of the benefit unit, and will therefore not be eligible for any assistance. And there will also be cases where someone actually has the necessities of life and will fit within the definition. In the latter case, the person who is not in need may not actually collect assistance because he or she fails the subsequent financial test. But that person will at least get to the stage of being financially tested, while someone who does not fit within the benefit unit definition will not.

The individual benefit unit is different because it does not make assumptions of dependency, but it too will fail the reality test in some instances. There is a discrepancy between no dependency and real life because in real life people do support each other. Most people live, at one time or another, in mutually supportive relationships. It is difficult to get a sense of need which does not include dependency because people do not live in isolation. They have families; they have spouses or live-in partners; they have relatives and room-mates. Therefore, if the system assumes that everyone is living on his or her own resources, and only on those resources, the assumption will not be in line with reality.

It is impossible to come up with a benefit unit that covers every single circumstance in real life. Is the alternative, then, to have no definition? The alternative of having no benefit unit at all would mean that it would be left to the income support worker to decide in each and every case what assumptions of dependency should be made, if any. This would lead to administrative chaos. No applicant would know what to expect from the system, and workers would be put under incredible pressure to make judgments in every case. This is clearly no solution.

Society's Expectations

Another test involves society's expectations. This is a difficult criterion because it is not objective. Each person has his or her own idea of what society expects, or should expect, people to do for each other. There is another expectation of what society expects social assistance to provide.

As an Advisory Group, we can say that it is our opinion that people should be encouraged to support each other and should be responsible for the relationships they have, particularly

when there are children involved. In principle, however, we find much to recommend in the individual benefit unit because it does not intrude on people's private relationships and it treats everyone as a person, not as a part of a family or a partner of a spouse. We realize that we cannot have it both ways – encourage people to support each other and yet ignore all support relationships.

Our expectations of social assistance also lead us away from the purely individual benefit unit. The principle of need must be paramount in social assistance. If the individual is the benefit unit, there could be people living in comfortable circumstances, supported by a spouse or partner or friend, who would technically have no resources in their own right – no income or assets. If the benefit unit did not require the system to ask the question on whom are you dependent?, the system would only look at the resources of the individual. The person might not actually be in need, but would be eligible for assistance anyway.

Using a purely individual benefit unit would potentially have the effect of turning social assistance into a guaranteed annual income for every person in Ontario who stays at home and who has no personal income. It would become a homemaker's allowance, which would go mainly to women who stay home, some of them to look after children, and who rely on the spouse's income. Recognizing the unpaid contribution of women working in the home has been advocated by some groups for many years. But it is not social assistance based on need.

Support in Law

If, to protect the principle of need, there are to be some assumptions made about people supporting each other, perhaps the system should reflect people's legal obligations to each other. Should legal obligations be met before social assistance pays? Should legal obligations be a proxy for an assumption of dependency in social assistance terms? The existing definition of the benefit unit is written to comply with legal obligations in the Family Law Act of Ontario. Before recent changes in the social assistance definition in 1986 and 1987, the prevailing proxy for dependency was the existence of a sexual relationship.

Traditionally, the system had defined people in family terms, as a single person, family head, spouse, dependent adult or child. For many years, this definition suited the conditions of the times because legal obligations, societal expectations and the reality of family life were all in line with the assumptions made by the system. However, over the last several years, the family-based benefit unit came under increasing challenge because its assumptions no longer reflected actual relationships between people. The flash point was the treatment of alleged spousal relationships where persons of the opposite sex shared living quarters – known as spouse in the house. The assumption made by the benefit unit was that co-habitation triggered a support obligation. And it triggered it immediately; the system was said to marry people as soon as they began having a sexual relationship, even if they did not actually live under the same roof.

This assumption came under legal challenge. The Women's Legal Education and Action Fund (LEAF) in *Beaudette* v. *The Director of Income Maintenance of MCSS and the Attorney-General of Ontario* argued that the spousal regulation infringed on equality

provisions of the Canadian Charter of Rights and Freedoms because of its disparate impact on women. Most of the people affected by the spouse in the house rule were sole support mothers on FBA. The fundamental injustice, according to LEAF, stemmed from the fact that benefits would be cut off absolutely when the alleged spouse was providing no contribution and had no legal obligation to provide adequate support to the family. LEAF suggested that a more rational criterion would be to consider the actual economic benefit existing or available from the cohabitation when calculating the economic need of an individual applicant.

The government chose to settle the Charter challenge and the regulation was revamped to comply with the Family Law Act. The existing regulation now says a spouse can be a person of the opposite sex who declares with the applicant or recipient that they are spouses; a person who is required under provision of a court order or domestic contract to support the applicant or recipient and her or his dependent children; a person who has an obligation to support the applicant or recipient or any of the dependent children under the Family Law Act, notwithstanding a domestic contract or agreement waiving support; or a person of the opposite sex who has resided continuously with the applicant or recipient for not less than three years.

There are some differences between the social assistance regulation and the spousal definitions in the Family Law Act. But the intent was to rely heavily on the legal support obligations in the Family Law Act to guide the social assistance system. Where the system used to consider people to be married for support purposes as soon as they moved in together, the system now does not make that assumption until after three years, unless there are children of the union.

Different assumptions about relationships and dependency create different problems with administration and evidence. A major criticism of the old spousal rule was that it allowed the system to intrude into people's personal lives, seeking information on their sexual conduct to establish the existence of a spouse – in other words, translating the assumption of a relationship into evidence that would stand up on appeal. Now the regulation specifically states that in determining whether a person is a spouse sexual factors shall not be investigated or considered.

The legal obligation approach tries to ensure that people who have legal obligations to another person provide support before social assistance is asked to step in to meet need. We believe that legal obligations should be met before the state has to pay. But we also recognize that there is a flaw in relying entirely on people's legal support obligations to each other to define the benefit unit. It is necessary to go back to the reality test. There can be a legal obligation for support and a person can still be in need. You cannot eat a support order. Legal obligation often does not close the gap between assumption and reality.

No Right Answer

There is no easy fix for the benefit unit dilemma. There is no clear right or wrong answer. It is an issue that requires compromise solutions, which will never be perfect. It will result in some form of rough justice.

We have stated our preference in principle for the individual unit because it treats everyone as a person, rather than as part of a relationship. We have also raised a practical concern about the individual approach because it puts the first call for resources on the state, rather than on other people. We have talked about the difficulty in making assumptions about relationships and dependency that reflect the reality of every situation. We have said that people ought to be encouraged to support each other, and that legal obligations should be met before the state meets need.

What we propose is a compromise. We emphasize again that there is no neat and perfect solution. Real life is neither neat nor perfect, and the social assistance system deals every day with people in real situations. We believe that the definition we propose is workable.

We propose that the benefit unit start with the principle that all adults should be treated as individuals, without regard for other relationships or living arrangements, except where they are living with a spouse who is legally obligated to support them. However, even in this latter instance, the system should treat applicants as individuals where there is hardship. There will be circumstances in which a spouse does not provide support, leaving the person applying for assistance in real need. In such cases, need should be met by the social assistance system. We deal in the next section of this chapter with issues related to recovery of child support, where a spouse defaults on legal support obligations.

Another circumstance which has been brought to our attention and which should be rectified through hardship provisions under the benefit unit definition involves the marriage of a disabled person with someone earning a low income. In this situation, the couple often cannot afford to live on the income brought in by the working spouse because of the additional costs of the person's disability. However, currently the disabled person cannot continue to receive his or her social assistance allowance.

In our proposed definition of the benefit unit, we also recommend that any income actually received from anyone, anywhere should be taken into account. This provision does not make any assumptions about relationships; it simply requires the system to take into account any income the person actually receives, regardless of its source.

The proposal for the benefit unit made by this Advisory Group is a refinement and an improvement on the current approach. It establishes the principle of treating people as individuals, which has not been done in the past. But it compromises on that principle to ensure that social assistance is designed to meet need. The major exception made to the individual approach is when an individual is living with a spouse who has a legal obligation to provide support. The proposed benefit unit is aimed at moving the assumptions made by the system closer to reality by making as few assumptions as possible.

The proposed benefit unit also allows the system to take action to meet real needs, even in the face of legal spousal obligations to provide support, in circumstances where there is hardship. A woman living with a spouse who does not provide support for her and their children, in spite of legal obligations, could not get assistance unless we leave an opening for paying an allowance in hardship situations. Assumptions of support should not get in the way of providing assistance to someone who is in need and who is the victim of abuse in a

relationship. Assumptions of support should not discourage people with disabilities from getting married either, as it may do currently in situations where the other person does not have enough income to support them both.

Direction 5:

- **In principle, all adult persons should be treated as individuals except where they are living with a spouse who is legally obligated to support them. However, even in this latter instance, the system should treat applicants as individuals where there is hardship. Hardship situations include circumstances in which spouses do not provide support or when disabled persons marry persons with low income. Any income actually received from any source, other than exempted income, should be taken into account in calculating the allowance.**

Financial Testing

The final step in the process of determining a person's eligibility for social assistance is financial testing. This involves three separate tests: assets, income and needs. Consideration of each is essential to ensure that social assistance is a needs-based program. Financial testing must be carried out on all applications to calculate whether or not, for the purposes of social assistance, a person is in financial need.

Liquid Assets

The test for assets is a pre-emptive one. That means that if an applicant has liquid assets – which include cash or possessions readily converted to cash – over an established limit, the application for assistance is denied. No further tests are done. Liquid assets may be in the form of stocks or bonds or an interest in property. There are three criteria which we see as important for drafting legislation on assets:

- Asset limits must be low enough to prevent someone who has a comfortable amount of resources from qualifying for social assistance;
- Asset limits must not be so low as to drive people to destitution before they can get assistance;

There must be some exemptions, either full or time-limited, for certain types of assets; the major reason for the exemptions is to ensure that the asset rules do not make it harder for people to get back to work.

Asset Limits

Currently, FBA has the following asset limits: $2,500 for a single person; $3,000 for an aged or disabled person; $5,000 for a childless couple or a single parent with one child; and $5,500 for a disabled childless couple or disabled single parent with one child. An additional

$500 is allowed for each additional dependent child. GWA says only that assets should be taken into account. The FBA asset limits may be applied to GWA recipients who are eligible for FBA. There are some minor differences in the definitions used by the two programs. However, the main inconsistency is that people applying for GWA may have much lower asset limits applied to them than people eligible for FBA, depending on the policy at the local level. GWA applicants are generally turned down if they have the equivalent of one month's assistance in the form of liquid assets.

In a new unified system, there must one set of asset limits. The FBA asset limits are now at the maximum allowed for cost-sharing under the Canada Assistance Plan. If Ontario raises its limits by a dollar, the Province becomes 100 per cent responsible for all social assistance payments to anyone who qualifies because of the increased limit. In the current fiscal climate, increasing Ontario's asset limits beyond the CAP guidelines is not a viable option because it would reduce the amount paid by CAP even further. What the Province should do is standardize the whole system on the FBA/CAP asset schedule so that people are no longer treated differently because of the current distinctions between GWA and FBA and the lack of consistent limits for GWA across the province. As a result, the system as a whole will be fairer and more consistent.

As a general principle, liquid assets have to be readily convertible to cash. A non-liquid asset is something that may have some value, but that value cannot be readily realized. Ownership is not always a cut-and-dried matter. For example, a person may own a part interest in a piece of property on which there are liens and a dispute over ownership. Until the dispute is sorted out and the liens removed, the person cannot sell the property and may be without any financial resources. An applicant may have a piece of furniture or equipment that might be valuable if repaired and restored, but the person does not have the money to fix it and will only get a pittance for it if sold. In that condition, it may not be worth selling. There have also been situations where an artist's modest inventory of unsold art has become an issue. If the art is not selling, and the person has no money, the art is not convertible to cash and should not be considered liquid.

Family Home

There are already some exemptions in the current system. One involves assets such as an owner-occupied home which are used in day-to-day life by the applicant. This exemption should be retained. It means that people who live in modest homes can continue to do so. These people have to live within the same shelter ceilings as other recipients, so if the mortgage, maintenance and other costs of the house are too high, they will end up having to sell it and move. But they should not be disqualified for assistance on the basis of the asset rules before it is determined if they can get by with what they receive from social assistance. Given the demand for and cost of rental housing in many centres, it would be counter-productive to insist that everyone on social assistance become a tenant.

Cultural and Religious Assets

There should also be an exemption available for cultural and religious assets. An applicant may have an item of significant cultural or religious value which also has considerable financial value. The person may be unwilling to dispose of such an asset, and will therefore be ineligible for assistance unless there is some leeway to allow an exemption for the item. For example, where someone has a treasured family heirloom that has been in the family for generations, it seems to us unduly intrusive to require that such a family heirloom be sold.

Criteria should be provided to assist in decision-making, but each situation would have to be determined on its own merits. The criteria should be developed in consultation with representatives of the different cultural communities in Ontario so that these criteria take into account sacred and cultural objects important to different cultures. CAP allows discretionary authority to Provinces to waive asset exemption regulations for applicants in extraordinary circumstances. This should be used for cultural and religious assets.

Tools of the Trade

Another exemption should be available for tools of the trade. In *Back on Track,* we recommended, in line with SARC, a six-month grace period before people have to dispose of assets related to small business, farming or other defined tools of the trade up to a specified ceiling. A grace period is particularly important to allow people to get back on their feet and leave social assistance. If an applicant has to sell his or her work equipment, then it will be all that much more difficult for the person to get back to work. In the North, many people have equipment like boats and snowmobiles that may be used for seasonal work as tourist guides. Some have equipment for use in the forest industry. Many aboriginal people hunt and trap to feed their families. In the south, the farm community has been hard hit by international economic trends. The six-month grace period would give some of these people a chance to get back into business again. After that, they would have to sell the equipment to convert the assets to cash. As we said in *Back on Track,* six months should be the general rule, but there should be some discretion in certain circumstances for an extension – for example, when the person will likely be back at work, using the equipment, shortly after. The extension would have to be for a specified period; it could not be indefinite.

Trusts and Funds Set Aside

In *Back on Track,* we recommended that special provisions be made for small and moderate trust funds left to recipients with disabilities. We noted that parents should be allowed to assist with the special needs of their adult children when they are no longer there in person to help. This is in line with the important Ontario Appellate Court decision on Audrey Henson. There should be no time limit on these trusts.

However, in *Back on Track,* we did not consider situations where applicants for social assistance have other types of trusts and locked-in arrangements, such as locked-in pension funds. CAP allows an additional amount for assets where the amount is placed in a special fund or trust or trust arrangement for purposes which the Province deems to be socially

important. There are instances when it is difficult to liquidate funds that are set aside. There are circumstances where the trust is designated for the future education of children. There is often a substantial financial penalty for opening up a locked-in retirement plan prematurely. To address these situations, we propose that there be a six-month grace period applied to special-purpose funds or trusts.

Most people who lose their jobs and need social assistance only receive assistance, on average, for a few months. A six-month grace period will allow recipients to keep their retirement savings intact for when they go back into the workforce. There must be a ceiling on this exemption. We do not want people to be able to have many thousands of dollars wrapped up in special savings funds while on social assistance. There must be reasonable limits and the purpose of these funds must be specified.

Designated Savings

The asset limits apply to a person who is receiving assistance. Therefore, a recipient cannot save for a special item over the asset limits unless there is some provision for it in the rules. FBA allows savings for necessary items, but GWA does not. Designated savings for necessary items should be allowed in new legislation. It may help some people become employed. For example, the purchase of a computer may lead to a new job. Designated savings should be permitted on the basis of certain criteria, such as enhancing employability or obtaining health or disability-related equipment. Persons with disabilities may need to save for some equipment which will lead to increased mobility and may open up possibilities for work or greater involvement in community life.

We do not suggest a fixed time period when the asset limits can be exceeded in this context because it will take people a much longer time to save when they are receiving social assistance. This aspect of the asset rules will probably be used by people who receive assistance for relatively longer periods of time than other recipients.

Inadequate Consideration

The current system has a regulation known as the inadequate consideration rule. What it says is that a person cannot dispose of assets at less than their value (that is, for inadequate consideration) within three years of applying for social assistance. We looked at this rule as part of our work on short-term reforms in *Back on Track*. We recommended that the rule be abolished; we found it hard to believe that anyone would give away their assets in order to qualify for assistance.

We have reassessed our position. We have been convinced that there are some people who make these arrangements on behalf of relatives, particularly the elderly. The children get the house for a dollar and the parent is taken to the welfare office to apply for assistance. This does not happen often, but the inadequate consideration rule is necessary to discourage the practice. We suggest that the time be reduced to one year; that seems to be a sufficient deterrent. In addition, there should be some discretion allowed in exceptional cases where the person is found to be in real hardship and the property cannot be recovered.

Direction 6:

- **New legislation should set asset limits for all recipients at the levels now in effect under the Family Benefits Act and which correspond to the guidelines of the Canada Assistance Plan.**

- **Exemption for assets used in day-to-day life, including a principal home, should be retained.**

- **Legislation should allow discretionary authority, based on criteria, to permit people to retain cultural and religious assets in certain circumstances.**

- **A six-month grace period should be allowed before people have to dispose of assets related to small business, farming or other defined tools of the trade up to a specified ceiling.**

- **A six-month grace period should also be allowed for applicants with special purpose funds or trusts for retirement or educational purposes up to a specified ceiling.**

- **New legislation should allow recipients to save for necessary items, which is now allowable under FBA. Guidelines should be developed to clarify what types of items may be designated for savings over the asset limits, such as enhancing employability or obtaining health or disability-related equipment.**

- **People who give away or sell their assets for less than their market value within a year of applying for social assistance should not be eligible for assistance. However, there should be some discretion for allowing assistance in exceptional hardship situations.**

Income and Needs Testing

The other two major financial tests involve income and needs. After an applicant has passed the assets test, the system looks at the income a person may be receiving and his or her specific budgetary requirements. By measuring income against needs, the current system uses what is known as the budget deficit needs test. It is not pre-emptive, like the assets test. Rather than finding the applicant either eligible for assistance or not, based on some cutoff point, the budget deficit method allows the person to be eligible for some assistance, but not necessarily a full allowance. There is a complex range of exclusions and inclusions of certain types of income. In calculating the allowance to which an applicant may be entitled, some kinds of income are deducted dollar for dollar and some not at all; some income is deducted in part and some income is deemed to be available. Similarly, the system determines need level by taking family size and structure, shelter costs and special needs into account.

The use of the budget deficit method has been criticized for being a back-door way of providing income supplementation for the working poor. It is true that because of this approach, the social assistance system will assist some people who are working.

The income rules allow people to have some earned income that they can keep, rather than deducting it all, dollar for dollar, from their allowance. The purpose is to allow recipients to work their way back into the workforce gradually until they no longer need assistance. This approach also helps some people who are in the workforce, who are in low-paid jobs, by allowing a small earnings top-up which means that they can keep working and do not have to go on assistance outright. It is less expensive to keep people in the workforce with an adequate supplement than for the state to have to support them on a full allowance. We support using the tax system, rather than social assistance, to provide that supplement. However, until that happens, social assistance should help people to keep working and stay afloat financially.

We do not recommend major changes to the income and needs tests. The budget deficit approach to the calculation of income and needs is essential if the system is to provide financial incentives to recipients to work. The Supports to Employment Program (STEP) has been evaluated and found to be effective in encouraging more people to get and keep jobs. An approach to social assistance which emphasize supports to employment is part of the whole reorientation of the system to opportunity planning.

However, we see the need for simplification and streamlining to make income testing easier to understand. In the existing system, there are dozens of different income rules. To reduce confusion, the new system should group criteria under four headings (although these lists are not exhaustive):

- income not deducted – this includes Family Allowances and Child Tax Credits because the social assistance rates for children are set on the assumption that parents receive these credits;
- income deducted in full – this is money that is owed to a person, such as child support (discussed below), payments from the Canada Pension Plan or the Workers Compensation Board;
- income exempted in part – in order to encourage people to work, there are exemptions under the Supports to Employment Program (STEP) which allow recipients to keep a certain amount of their earned income; a number of improvements were made to STEP exemptions after *Back on Track;* this section also includes income that recipients receive from boarders;
- income deemed to be available – this means considering income that the person should get; unfortunately, sometimes they do not actually receive it as discussed below.

Deemed Income

As noted above, problems may arise with deeming of income when income is not actually received. In cases of sponsorship breakdown, we noted in *Back on Track*, that a sponsored

immigrant has no legal recourse to pursue support because the sponsorship agreement is between the sponsor and the federal immigration department. This leaves the person in limbo – unable to obtain support, but ineligible for assistance because that support is deemed to be received. For that reason, we recommended that pending resolution of the federal-provincial negotiations, social assistance be made available to sponsored immigrants who are in need and who sign an affidavit that their sponsor is not providing support. The government accepted this recommendation, but has not yet acted on it.

The deeming of income must be put to the test of reality – does the person actually get the deemed resources or are they only a paper obligation? Is there any recourse to obtain these resources? If people are experiencing hardship because there is no actual support provided and they do not have reasonable access to those resources, the system should not deem the income.

Child Support

Child support is a controversial area because one of the reasons that some women do not want to pursue support is due to a history of family violence. Other women would rather not pursue it because they do not want to have anything to do with the former spouse or father. In some situations, a woman does pursue support and the amount set by the court is so low as to make the exercise hardly worth the time and trouble. Unlike sponsorship agreements, however, there is legal recourse for custodial parents to claim child support from the other spouse, usually the father, and the legal pursuit of support is currently a condition of eligibility.

It is our view that the government should pursue child support on behalf of social assistance recipients. In that way, a recipient can distance herself from the legal proceedings because the choice to pursue is not hers; it is made by the state. Some former spouses threaten women to scare them into withdrawing from pursuit of support. They not only get away with abusing their spouses; they abuse the system by not paying support for their children, leaving that obligation to the taxpayers. There is a perverse incentive to violence if men who threaten their wives do not have to pay child support, while those who are non-violent do have to pay.

If the government pursues support, rather than the spouse, the threat to women should be reduced and the system should be more likely to recover support funds. If the onus is on the government to pursue support, the mother's eligibility for assistance should not be affected. She should be kept advised of the status and outcome of the support case by the government. The amount of the support payment collected by the government would be paid directly to the family and the social assistance allowance would be reduced by that amount.

However, an issue has been brought to our attention in relation to situations where the mother does not want to name the father of the child. There may have been threats of violence or there may have been no relationship and no intent of a relationship between the two people. We recognize these concerns; however, we do not want to make recommendations which will result in men contributing less to their children's support than they do now. On the other hand,

we will not recommend that a mother and child be forced into destitution because there is no child support and social assistance is refused because the woman will not name the father.

We support the general rule that support should be pursued by the state and the general rule that a woman's eligibility for social assistance should not be jeopardized. However, we recognize that these rules may end up in conflict in some instances. The benefit of the doubt has to go to the applicant who knows the circumstances of the relationship. The system could deem child support income where a mother refused to name the father, but if the resources are not actually received, and the mother and child would suffer hardship as a result, they could be eligible for support under the hardship rule. This is not a situation which allows for hard-and-fast rules.

The government has concentrated considerable effort on improving the collection of court-ordered child support payments, yet a very high ratio of payments are never made. The government should be applauded for its determination to improve enforcement of support orders under the new Family Support Plan. We would ask that it take the next step. Many child support orders are incredibly low, and bear little relationship to the real cost of raising children. We suggest that child support guidelines be legislated to ensure that child support orders are fair and adequate.

Matrimonial Settlements

There should be a six-month grace period for matrimonial settlements which involve sale of the family home. Many couples have to sell the house when they separate and each has a share in the matrimonial home. If the house has to be sold, a mother who is on social assistance with the children may want to use her share to buy another smaller house. If there is no grace period, she will be ineligible by virtue of the income from the sale and may not be able to get a mortgage on another home quickly.

Compensatory Payments

Compensatory lump sum payments may come from a variety of sources, including law suits, insurance payments, the Workers' Compensation Board or awards by the Criminal Injuries Compensation Board. The lump sum payments are usually for pain and suffering. There is currently a flat rate exemption, of up to $25,000, for such awards. In situations where there is a very large award, the person will no longer need social assistance. However, there will be situations where the injury has resulted in a disability and the compensation will not support the person for long. Often, this money may be used to purchase attendant care services, counselling or other costs related to the injury. We propose keeping the $25,000 flat rate exemption, but allowing some discretion for amounts above the flat rate in situations where the money is needed to defray expenses relating to the reason for compensation.

Income in Kind

Many recipients have relatives or friends who occasionally give them gifts. This should not affect assistance payments. There are also payments by third parties which are not available to the recipient for day-to-day needs; for example, a matrimonial settlement may involve a spouse paying for an insurance policy or a benefit plan. Payments which are not actually available to a recipient should not be deducted from the allowance which covers basic needs. Some recipients have relatives who pay for the difference between the shelter ceiling and the rent actually paid. This kind of personal help from relatives or friends should not be discouraged. *Transitions* put it well when it said that reasonable assistance should be exempt if that assistance meets needs not met by the social assistance allowance.

Assignments

Assignments of income are involved when a recipient is entitled to some other benefit, such as federal Unemployment Insurance. Unfortunately, there are administrative barriers to ensuring that people receive the support to which they are entitled from other programs – benefit periods do not match; applications must be repeated each month; different government offices do not communicate with each other regularly. These technical issues should be cleared up. Later in this report we discuss the potential of linking different programs through technology so that social assistance offices can easily check whether an applicant is entitled to benefits from another program.

Direction 7:

- **The budget deficit needs test should be retained, and the income calculations should be simplified and streamlined to make them more understandable.**

- **Child support payments should continue to be fully deducted. The government should assume the responsibility of pursuing support on behalf of all recipients whose children are entitled to support. However, eligibility for assistance should not be jeopardized if support cannot be pursued. In addition to its efforts to improve the enforcement of child support orders, the government should legislate guidelines to ensure that court-ordered child support is fair and adequate.**

- **Where income is to be deemed to be available, the system should take into account whether that income is actually received or reasonably obtainable, and if it is not, and an applicant or recipient is experiencing hardship as a result, assistance should be provided.**

- **There should be a six-month grace period for matrimonial settlements which involve sale of the family home to allow people time to establish a new residence.**

- **The $25,000 flat rate exemption for compensatory payments should be retained, with some discretion allowed for recipients to keep amounts above the flat rate in situations where the money is needed to defray expenses resulting from an injury.**

- **Reasonable assistance from relatives and friends of recipients should be exempt if this assistance meets needs not met by the social assistance allowance.**

The Determination of Disability

> *"...experience has proven that many people with disabilities need specialized intervention to be placed on an equal footing with non-disabled people. The disabled community supports the intent of mainstreaming but does not support changes that, in effect, mean we are treated the same as non-disabled people. We **are** different. Failure to respond to our differences means that we are disadvantaged and our potential is limited. This is a price we will not pay for inclusion in the community."*
>
> Income Maintenance for the Handicapped Co-ordinating Group

Introduction

The determination of disability for the purposes of social assistance requires urgent reform. *Transitions* said in 1988 that the problems involved in disability determination had reached a crisis point. The crisis has not been resolved. The process for establishing that a person is disabled in the eyes of the social assistance system is the cause of much frustration for people in need. There has also been controversy within the system over the interpretation of who should be considered disabled within social assistance legislation.

For the drafting of new legislation, there are a number of issues to be resolved under the general heading of disability determination. The major ones are the actual definition of disability, the process for making the determination – how it should be done and who should do it – and the possibility of periodic review of disability cases. We recommended in the previous chapter that there be a category for persons with disabilities in new social assistance legislation and that this category continue to provide the supplement to the basic allowance that was originally established in CAP and in the GainsD program in 1974. The disability determination process will decide which recipients qualify for this category.

The Current System

Someone who applies for support from the social assistance system on the basis that he or she cannot work because of a disability has two avenues. GWA provides assistance to persons in need because of temporary or permanent ill health. The applicant has to provide a doctor's opinion that the person cannot work for medical reasons. The person's eligibility for GWA is subject to periodic review. The person may also apply for FBA. Under that program, the definitions of disability and unemployability require that the applicant have a condition that is medical in nature, prolonged and severe. The person's case goes through a Medical Advisory Board (MAB) which considers the medical evidence and advises the Director of Income Maintenance or his or her designate if the person qualifies as disabled, blind or permanently unemployable. FBA provides a higher basic allowance for recipients who qualify as disabled. Disabled persons are also allowed to have higher income and asset levels than other recipients. Under FBA, there is no provision for reassessment; with rare exceptions, once eligible, a recipient is not made ineligible on the basis that his or her disability is no longer present or is less severe.

As of October, 1991, persons classified as disabled on FBA made up 21 per cent of the total number of social assistance cases (not including beneficiaries such as children). Persons on GWA because of ill health made up 7 per cent of all social assistance cases. Because of the higher allowance for persons with disabilities on FBA and because FBA is funded fully by the province, rather than cost-shared by municipalities, there is pressure from both local delivery agents and recipients to move people, particularly those who have been on GWA because of ill health for some time, to the FBA program.

The numbers of persons with disabilities receiving FBA have grown by between 6.5 and 7 per cent a year since 1982, faster than the growth in population. This has been caused by a number of factors. One of the reasons is the impact of the closing of major psychiatric institutions and moving residents into the community. There is also a greater recognition of psychiatric disorders by physicians. In March 1982, persons with psychiatric disorders made up 17 per cent of FBA cases with disability. By March 1991, that percentage had risen to almost 26 per cent.

Concerns with the Current Approach

One of the concerns with the current system is that its puts people through two separate processes. In the new unified social assistance system, there will no longer be two programs. This will mean that disabled people will no longer be passed from one system to another, a process which usually involves revisiting the doctor to fill out new forms and repeating medical information to different social assistance workers in different offices. There will be one process to determine who qualifies for the category of persons with disabilities.

In FBA, the definition of a disabled person is a person who has a major physical or mental impairment that is likely to continue for a prolonged period of time and who, as a result, is severely limited in activities pertaining to normal living. This conclusion must be verified by objective medical findings accepted by the Medical Advisory Board (MAB). A permanently

unemployable person is one who is unable to engage in remunerative employment for a prolonged period of time. This assessment must also be verified by the MAB.

The emphasis on medical findings does not take into account the importance of other factors, which are not part of the person's medical condition. For example, the prospect of a person being able to enter or re-enter the labour force may be influenced by the individual's education and work skills. The person's ability to cope with the tasks of daily living may be affected by the availability of assistive devices and support services.

Over the last few years, the Ontario system has moved away from a strict adherence to medical factors to give greater weight to social and economic factors. This move has been supported by the Social Assistance Review Board. The Ministry of Community and Social Services launched a court challenge of the SARB approach. As part of the response to *Back on Track*, the Government withdrew its challenge to await the outcome of this report and its recommendations for a new disability definition and process.

The success rate of appeals on disability cases to SARB has increased from 24 per cent in the early 1980s to an average of 71 per cent over the last two years. The Medical Advisory Board has also recognized new diagnoses, such as environmental sensitivity, over the last few years. Since the MAB was decentralized in 1984, the overall approval rate for applications has risen steadily from 40 to 62 per cent. However, the rate of approval varies among different regions in the province.

The issue of non-medical factors is not the only problem with the existing definitions. In practice, they require that the disabling condition be permanent. The emphasis on permanency of unemployability dismisses the potential of many disabled people who could work, given rehabilitation and opportunities for employment. It is also criticized as creating barriers and disincentives for disabled people to seek training and employment. The expectation of permanent unemployability for many disabled people is unfounded since there are persons with disabilities who are working and participating in the STEP program.

In addition, the emphasis on prolonged, major impairment does not recognize certain conditions which may result in severe disability for short periods of time, after which the condition goes into remission and the person may be able to go back to work. Multiple sclerosis is one condition which often has a wax and wane effect.

Another concern has to do with the process that is part of the definition. Because of the focus on medical condition, the determination of disability is left to medical doctors. Physicians are not necessarily trained in assessing vocational issues – whether someone is ever going to work again. There is also variation in physicians' assessment of disability cases; some take factors other than medical condition into account, and others do not. Whether or not a medical condition is permanent may also be a matter of judgment.

Defining and Determining Disability

Disability determination is one of those issues that is much more complex than it may seem at first glance. There is no such thing as the disabled. Every individual is unique and it is very difficult to make generalizations. What has been learned over the years is that there is a difference between a physical or mental impairment and the ability of the individual to function in daily life. This distinction is not clearly recognized in the current definitions of disability, which were written some 25 years ago. For example, there could be a person in a wheelchair who has an obvious physical impairment, but who has a high level of education and holds down a good job. Another person may have a much lower level of physical disability, but be unable to work for a variety of other reasons, and have no other means of support.

The Project Team on Disability Determination examined policies and practices in different legislation and in different jurisdictions. The team found a diverse range of approaches on such issues as the definition of disability, the duration and severity of impairment, the factors considered other than medical conditions, the determination process and the benefit structure. While there is no consistent approach – and no right definition – for dealing with disability issues, many jurisdictions and programs now recognize that medical impairments and disabilities should not be the sole determining factor. Experts in the field say that the strictly clinical approach to disability determination is bound to fail because impairment in a person's ability to work is not only a physical or mental condition, but a complex interaction of factors, including social and economic factors.

We looked to the World Health Organization (WHO) to provide guidance in developing a definition for new social assistance legislation for Ontario. The framework or model provided by WHO is recognized internationally. The WHO model does not provide a working definition for disability determination, but it sets the groundwork for one. The WHO model is neither more lenient nor more restrictive than the definition Ontario has now; it is simply different. How the model is adapted for use is what makes the determination of disability either more open or more limited.

The World Health Organization Model

Under the WHO model, a *handicapped* person is one who is handicapped as a result of an *impairment* and a *disability* for a prolonged period of time.

Impairment: Any loss or abnormality of psychological, physiological or anatomical structure or function.

Disability: Any restriction or lack (resulting from impairment) of ability to perform an activity in the manner or within the range considered normal for a human being.

Handicap: A disadvantage for a given individual resulting from an impairment or disability that limits or prevents the fulfillment of a role that is normal (depending on age, sex, social and cultural factors) for that individual.

The WHO model looks at the disadvantage caused by loss of functioning and restrictions in what a person can do. It does not define any of these in terms of permanence or degree of severity. It ties the handicap to what is normal for a particular individual. Using the WHO model as our guide, we took into account the experience in Ontario with the current system and we considered what should be achieved by change – what are the objectives of a new approach?

Objectives of Change

We concluded that a new approach to disability determination should:

- consider other social and economic factors, in addition to medical condition, that may affect a person's ability to work and to perform the tasks of daily life;
- focus on rehabilitation and the person's abilities rather than focusing on proving that someone is never going to work again;
- avoid assumptions of permanency – reduce the expectation of duration of the handicap;
- avoid a requirement for severe limitations, on the basis that the interpretation of severe tends to be extremely restrictive;
- take into account limitations in either work or daily living, since the impact of disabilities can be different (for example, someone may be able to cope well in the home environment, but be very disadvantaged in the workplace, while another person may do well at a desk job, but have difficulty with such tasks as grocery-shopping or doing laundry);
- include some provision for review on the basis that socio-economic factors change during a person's life, even if a medical condition persists;
- move away from exclusive reliance on medical opinion and allow for a multi-disciplinary assessment.

The purpose of a new definition is not to make it easier or harder for people to be designated as disabled. It is to make the determination of disability more consistent with current understanding of the real impact of disabilities on people's daily lives and ability to work. There may be people who would not qualify for assistance under a definition limited to medical condition, but who might qualify under one which takes into account other factors; but the opposite might also occur. We recognize that new wording will not eliminate controversy from this issue because much will hinge on how the definition is interpreted when it is applied to people.

The definition we propose sets a threshold for disability of six months – a minimum time period in which the person is expected to be disabled. We have eliminated the notion of a permanent condition, but we have not eliminated all time requirements. There is a practical reason for this: the category of disability is not intended for people who have a temporary illness or medical condition, for example, someone with a broken leg. The six-month threshold eliminates that group. This does not mean that such a person would not be able to

get their special needs met. Mandatory special necessities must be available to all persons on social assistance, not just those in the category of disability.

It should be emphasized that the six months is not a waiting period. It refers to the prognosis of the duration of the disability. The person with the broken leg will be out of the cast in a couple of months or less; he or she will not qualify for the disability supplement. The condition of a person who is diagnosed as being in the terminal stage of an illness, or who has a developmental or physical disability, is not expected to change in six months; that person will qualify right away.

Recovery and rehabilitation must be taken into account. Thus, there should be provision for a periodic review, based on the assessment of the body which made the disability determination in the first place. This may either be a medical adjudicator or a multi-disciplinary committee. (This process is described in the next section.) The threshold of six months and the periodic review are separate issues. The threshold ties eligibility for the disability allowance to an estimate of how long the person is expected to be disabled. The review is to look at how a person's circumstances may have changed after a certain period of time in receipt of the disability allowance.

Without a review process, anyone who qualifies as disabled will be considered disabled for life. We would, in effect, be going back to the notion of permanency. But people's lives are not static. Once social and other factors are introduced into the definition, there must be some way of reviewing the person's circumstances because these factors change. A change in a social factor might be that a person who did manual labour and lost a limb has studied to become a teacher, where having a prosthetic arm is not disabling for purposes of employment. We decided not to set a particular time when every case had to reviewed because individuals are so different. The review period should be left to the experts who make the disability determination.

Direction 8:

- **A person who qualifies as disabled for the purposes of social assistance should be defined in new legislation as a person with a physical or mental impairment that, when considered together with the person's education, training, work experience, skills, and age, results in substantial limitations in:**
  - **performing the activities of daily or community living or**
  - **the kind or amount of paid work the person can do.**
- **The disability must be expected to last for six months or longer except in the case of terminal illnesses or cyclical disabilities.**
- **The determination of disability must be subject to periodic review, as specified by a multi-disciplinary committee or medical adjudicator.**

The Determination Process

There must also be a new determination process, one that is fair, efficient and workable for applicants and the system. Given that the proposed new definition introduces other factors, in addition to a person's medical condition, it is imperative that experts in areas such as rehabilitation and vocational training be included in the assessment process. However, we do not want to create a process which unnecessarily prolongs the determination of disability. If a multi-disciplinary team had to look at every case, even the most self-evident ones, there could be an administrative bottleneck created. We have tried to apply some common-sense criteria so that the process can be as streamlined as possible, without curtailing the rights of applicants.

There will be some situations where automatic eligibility should be granted. These include cases where disability has already been established through another approved process: for example, through the Canada Pension Plan or through a court case. There may also be situations where the medical condition is such that no medical adjudication is necessary, for example, a person who is dying of AIDS or who is in the terminal stages of cancer . It should be possible to draw up a list of conditions where no medical adjudication by the system is necessary. A doctor may simply fill in a box on a form which indicates that the person suffers from this condition. We are aware that in Quebec this kind of fast-tracking is used. For this stage of disability determination, the income support worker should have the role of making eligibility decisions.

For this fast-tracking process, as for later stages of determination, there will be a requirement for documentation. In some instances, it may simply be a matter of producing a CNIB card (Canadian National Institute for the Blind) or verification from Canada Pension saying that it recognizes an applicant's disability. However, other assessments will require a report from a physician or specialist. The costs of obtaining medical certificates for the purpose of disability determination, which are now covered by FBA, should be covered in any new system.

The second stage of the determination process will require the opinion of a medical adjudicator. But instead of making the medical adjudicator or board of adjudicators the final arbitrators of disability assessment, we recommend that the medical adjudicator have authority to approve a finding of disability. Clear-cut cases that can be justified on medical grounds would be approved at this stage. However, the adjudicator should not have the authority to reject. Cases not approved would move to the third stage of assessment, the multi-disciplinary committee. The committee should consist of the medical adjudicator, a vocational specialist, a consumer, and a social worker. Applications rejected by the committee could be appealed to the Social Assistance Review Board.

This determination process allows for quick approval of clear-cut cases, builds on the strength of what already exists in the medical adjudication system, and takes into account the necessity of having a broader-based evaluation of more complicated cases by a team of experts.

There may be some recipients who are disabled who leave the system for a period of time and then reapply. As we have already noted, some conditions are cyclical in nature. The level of impairment may be substantial at one point, but the person may recover and go back to work, only to suffer another setback later. There will also be situations where a person's disability does not necessarily wax and wane, but the person's need for assistance will fluctuate because of lack of opportunities for disabled people in the job market. To deal with both these kinds of cyclical impacts, we recommend that where a determination of disability is made in the first two stages of the process – through the fast track or medical adjudication stages – a reapplication for disability determination should not be required. Because the third stage of determination includes social and economic factors which may change over time, persons who are found to be disabled through that final process must reapply for a disability determination if they leave the system for a certain period of time and then return.

Direction 9:

- **Legislation should provide for a three-stage disability determination process.**

- **Automatic eligibility may be granted by an income support worker in cases where disability has already been established through another process (for example, through the Canada Pension Plan, CNIB or through a court case) and in situations where the medical condition is such that no medical adjudication is necessary:**

  - **Eligibility may be granted by a medical adjudicator in clear-cut medical cases;**
  - **All other cases not approved in the first two stages must be referred for assessment by a multi-disciplinary committee, consisting of the medical adjudicator, a vocational specialist, a consumer and a social worker.**

- **Rejections by a multi-disciplinary committee may be appealed to the Social Assistance Review Board.**

- **Persons whose applications for disability determination are approved through the first two stages of the process should not have to reapply for the disability supplement if they leave the system and then return after a period of time.**

Creating Access to Opportunities

Reorienting the System

If all the changes in this report are implemented, except the ones in this chapter – that is, if the new system becomes fairer, simpler and more effective, but no new paths to opportunities are created for social assistance recipients – we will have failed to set the system on a truly new course for the 1990s and beyond. We will have created a more efficient system of income support, but it will not be a system that acts as a springboard to the future, that gives people the opportunity to get out of the trap of poverty and to have more fulfilling and productive lives.

> *"We've lost a lot of companies here ... you don't know where you are going to get another job if you are my age. You've been trained for one job. Where do I go from here? What else is available? How do I go about getting the education to do it? If you are on General Welfare, they tell you you must do a general job search. A job search for what?"*
>
> Male GWA recipient,
> Eastern Ontario

Creating access to opportunity is an essential part of the foundation of the new social assistance system. The Social Assistance Review Committee called its report *Transitions* to highlight its view of social assistance recipients as people who are going through difficult changes in their lives and who need both income and other supports as they move towards greater self-sufficiency. SARC said: A philosophical reorientation is needed so that the provision of assistance to become self-reliant and active participants in the life of the community will be considered just as important as the provision of adequate income to meet basic needs.

Opportunity planning is the vehicle through which SARC proposed to facilitate those transitions. *Transitions* defined the functions of opportunity planning to include: helping recipients to identify their strengths and weaknesses, advising them on available services and programs and helping them gain access to these opportunities, developing an individual action plan

with each recipient, and monitoring and supporting the implementation of that plan.

Opportunity Planning: A Process and an Attitude

In this chapter, we expand on SARC's idea of opportunity planning and discuss how we believe it should be implemented. Opportunity planning is not just another employment-related program that must be added into social assistance legislation. There have been a number of those in the past, and most of them are not even used anymore. Opportunity planning does not mean make-work projects for recipients of social assistance. Opportunity planning, in our view, is a process and an attitude. It is an attitude that says the system will support and advocate on behalf of social assistance recipients to ensure that they have access to the opportunities they need. It is process that provides the kinds of supports that people require to be able to take a training course or hold down a job – supports like child care, transportation subsidies, or a start-up grant to buy books for school or boots for work. For many people, the opportunities made available through the system will lead to education, training and jobs; for some, for whom a job is not a realistic prospect, opportunity planning will provide supports that lead towards greater participation in community life.

What this means for the system is that more people will make the transition to self-reliance. That will reduce the costs of social assistance over time. What it means for recipients is that they will have a better chance to escape from poverty and dependency and realize their own goals.

Right now, the system is expending enormous effort just to make sure that all the forms are filled out, including forms proving that people have looked for work and have not found anything. We want to see more planning and effort put into assisting recipients to find out where the jobs are or where the jobs are going to be when the economy picks up, and how they can become qualified for them, if they need additional education or training.

No Coercion

Opportunity planning must be marketed to recipients. As soon as someone is found to be eligible for income support, that person must be informed that this is a supportive, opportunity-oriented system that helps overcome the many barriers to education, training and employment and removes the disincentives that are holding people back from making the transition to the mainstream. This must not be a coercive system that forces people into training or job programs, for the simple reason that such strategies do not work. Training classrooms full of welders when there are no jobs to be found when the program is completed just discourages participants. Similarly, forcing people to take marginal jobs for which they are unsuited may get them temporarily out of the system, but the likelihood of their having to return is high.

Pilot Projects

In *Back on Track*, we proposed that the Ministry of Community and Social Services fund pilot projects in opportunity planning to experiment with how it might work in practice. Planning for these pilots is proceeding. MCSS is calling for proposals for projects. These pilots will provide helpful experience for future implementation when opportunity planning becomes an integral part of the new system.

The Ministry is also in the midst of revamping its employment programs. There is a disparate range of programs funded by MCSS through the Employment Opportunities Program (EOP) and the Employability Agreement (EAP). However, these programs, mainly operated by municipalities, are not available on a consistent basis in communities across Ontario. The Ministry is planning to consolidate its employment funding into one redesigned program.

Supports to Employment

As part of its response to *Transitions*, the Ontario Government instituted the Supports to Employment Program (STEP) in 1989 to remove some of the disincentives to work and to provide more support to recipients who can obtain employment. One of the major disincentives was that a person on social assistance who made some earned income lost nearly all of the advantage of working because most of the income was deducted from his or her allowance. In addition, other benefits such as drug and dental coverage were cut off. STEP allows recipients to keep more of what they earn. Rather than moving abruptly from assistance to work, STEP allows for a transition into the full-time job market.

As a result of *Back on Track*, further improvements were made in STEP.

Financial incentives were improved: the tax-back rate was reduced from 80 to 75 per cent; the deduction for child care expenses was improved; union dues and mandatory pension deductions from payroll were recognized; and deduction of work-related expenses of persons with disabilities was allowed at actual cost. In a related move, MCSS also applied STEP provisions and the employment start-up benefit, which gives recipients up to $250 to defray the expenses of starting a new job, to any paid training programs.

An evaluation of STEP was conducted in 1990-91 to determine its effectiveness (before the *Back on Track* changes). The evaluation by independent consultants was carried out for MCSS and the Advisory Group. Overall, the conclusion of the evaluation report was that STEP is working; it is encouraging more people to work and it is saving the social assistance system substantial amounts of money by doing so. The report made some suggestions for improvements. It said that STEP should be communicated and marketed more aggressively so that more workers and recipients become more familiar with it; there should be more staff training, and administration should be simplified. The report also suggested expanding incentives for education and training, and improving access to child care and transportation assistance. It said that the program should be promoted more effectively to persons with disabilities to increase their participation.

STEP is clearly going in the right direction. But the system still has a long way to go. At the moment, STEP is mainly helping people who recently lost a job and who are fairly well-educated to get back into the job market. That is a good thing – the more people who can find secure, well-paid employment, the better. But what about those people who are not job-ready and who need more support to gain the skills and confidence they need to break into the labour market? And what about those for whom employment is not an option? They should have access to opportunities too.

Opportunity planning must include and go beyond STEP to encompass a whole range of supports to help people overcome barriers not only to education, training and employment, but to greater participation in community life. One of the side-effects of poverty is that it marginalizes people; it sets them apart from the rest of society. For persons with disabilities, for example, who find themselves shut out of many activities because they cannot get into the building or there are no devices to allow them to participate, the additional burden of poverty contributes to even greater isolation.

Planning for Opportunities

There have been some positive changes since *Transitions*, but the major philosophical reorientation of the system to make it a springboard to opportunity has yet to occur. In fact, because of the massive growth in caseloads caused by the recession, the system may have regressed in some ways. There are few staff resources available to work with recipients on plans for training or employment when workers are swamped with the task of dealing with applications for assistance and trying to keep track of unacceptably high caseloads.

A recent study in Ottawa-Carleton indicates what can be achieved when even a few of the right conditions are put in place. The study looked at the impact of reducing workers' caseload, providing some additional training for workers and providing a transportation subsidy for recipients. The study found that worker training and reduced caseloads, alone or in combination, had a positive short-term outcome for recipients. These factors increased the likelihood that recipients would find immediate employment through improved assessment and employer referrals. The bus pass did not have a significant impact on employability on its own, without greater worker support and training. It was the interaction between worker and recipient in assessing barriers and employment prospects and finding solutions that made a real difference.

Opportunity planning involves recipients and workers together identifying and overcoming barriers to education, training and employment or barriers to greater participation in community life for those who are not able to work. Part of the purpose of opportunity planning is to make the links between social assistance, labour market systems and social and other supports and services so that programs and services for recipients are coordinated. Recipients cannot be expected to know all the programs that are available. However, sometimes when they do know about a program, they cannot get into it because of the stigma attached to being on social assistance. The doors are effectively closed.

Opportunity planning must open those doors.

If the social assistance system is reoriented towards opportunity planning, there is potential for making a major impact that will not only improve the lives of recipients, but will also save the system money by helping more people to leave social assistance for employment.

Employment, Training and Education

Before describing the separate functions of opportunity planning, it is important to establish what business social assistance should be in, or more precisely, what it should not be doing. The basic question to be answered is: Should social assistance provide employment and training programs directly to recipients?

To put this question in context, it should be noted that existing social assistance legislation contains a whole array of programs and supports for employment and training. Many of these are discretionary – that is, local delivery agents may choose to deliver them or not. GWA provides for work activity projects to prepare people for entry or return to employment or training programs if they have unusual difficulty in obtaining or holding a job. There are only about a dozen of these work activity projects still in operation across the province. There are many other references in the Acts and regulations to employment and training services. GWA contains provisions for the province and municipalities to launch public works projects to relieve unemployment. The GWA regulations include vocational training or retraining as part of the Special Assistance program. There are also provisions for travel and transportation allowances. A section on administration says that welfare services may include vocational rehabilitation, child care or training. FBA and GWA include child care expenses and an employment start-up allowance.

Existing legislation retains a history of initiatives aimed at helping people to get back to work or to get training. These scattered references are the legacy of a system which grew incrementally over many years. New legislation must clarify the role of social assistance.

In our view, the system cannot take on the task of providing all the actual training that people need, nor should it be in the business of running public works projects or providing jobs through so-called work activity. Social assistance is not a training or an employment program, nor should it be. Such initiatives should be provided through mainstream and specialized programs, many of which are funded by the federal government. We have already expressed our concern at the beginning of this report that social assistance is expected to make up for the shortfalls and inadequacies of many other programs and services. This is a case in point. Social assistance should not have to provide training programs for recipients because other programs put them at the bottom of long waiting lists or bar them from entry altogether.

We believe that the system must continue to provide the financial supports that help people make the transition to self-reliance. The financial supports provided by a program like STEP are integral to how the system works in relation to earned income. They affect how a recipient's allowance is calculated. They must remain part of social assistance. Through

opportunity planning, the system must provide such supports as child care and transportation subsidies to recipients to ensure that they can take advantage of the opportunities that are available. These supports are what make the opportunities viable for people.

The social assistance system must also act as a broker and advocate for recipients to ensure that they get access to the opportunities they require. Through opportunity planning, the system should link recipients to other programs and services in the field of training and employment and ensure coordination of services and supports.

Another major issue for social assistance is access to post-secondary education. Some recipients want to attend university or college; meeting their goals for the future depends on access to post-secondary education. They should be able to get the assistance they need from the Ontario Student Assistance Plan (OSAP). We referred in *Back on Track* to the inadequacy of OSAP and the problems that creates for people in need. If developing Ontario's skilled human resources base is as important as everyone says it is, then the Province must ensure that people who cannot afford post-secondary education can get the help they need through an adequate student assistance program. Until OSAP is adequately funded, no recipient group shall lose the benefits they now receive under the combination of social assistance and OSAP.

Implementing the Process

SARC made a point of defining the job of an opportunity planner and separating that person's functions from those of the income support worker. *Transitions* argued that the two roles should be separate. It said that the role of the income support worker, in determining and monitoring eligibility, has a policing aspect to it which should not be part of a relationship between a recipient and an opportunity planner who acts as an advocate to link the client to services. SARC also said that the separation of roles should ensure that opportunity planning is not subordinated to the income support function.

However, many workers in the system see the situation differently.

We heard from a number of staff and their unions who said that the roles should be merged. They saw the separation of the two functions into two separate jobs as consigning the income support worker to the ancillary role of taking applications and maintaining files. In their view, the opportunity planner would be the staff person who would actively work with the client; the income support worker would be little more than a paper-pusher.

Separation or integration of roles has become an issue of controversy in the system. We take a rather different approach from either *Transitions* or the presentations submitted in support for or opposed to SARC. We see opportunity planning not as a job, but as a process.

We believe that if opportunity planning is indeed to become an integral and successful part of the social assistance system, the reorientation of philosophy must permeate the system. Opportunity planning should not be designated as one single job. That risks defeating the purpose because it leaves the rest of the system to continue with business as usual. It also implies that one person will have to know everything there is to know about the needs of all different kinds of people, and that, in today's world, is impossible. People's needs are very

different, and their requirements for opportunity planning will vary, depending, for example, on whether they are disabled, a single parent, or homeless, whether they are an older worker whose skills have become obsolete or a youth who is functionally illiterate.

Opportunity planning should be a process whereby the system makes things happen for people. For example, the first priority may be finding a safe and stable place for someone to live. That might be done by the income support worker. The worker who determines eligibility will have to make a judgment as to who can best counsel and assist the recipient. It may require a specialist who knows all about vocational rehabilitation for the disabled or pre-employment programs for someone who is not job-ready.

Opportunity planning may require a team effort for more complicated situations; one team member would take the lead and work most closely with the recipient. As SARC suggested, community organizations could be used to carry out some of the opportunity planning functions. This would be particularly appropriate for people with special needs.

How the opportunity planning process would be allocated among staff would depend on the size of the office and the people involved. We expect that it will work differently in different places. We do not feel there is a need to specify in advance that there must be a job called an opportunity planner. There must be an opportunity planning process which provides the services. There must be a process that works.

The Functions of Opportunity Planning

It is important that opportunity planning be defined in legislation as an integral part of the system and that its functions be clearly identified. We have broken down the key co mponents of opportunity planning to include the following: assessment; development of an opportunity plan; advocacy, brokerage and personal support, purchase of service; financial supports; and monitoring and evaluation. Each is described briefly below.

Assessment

Many people come to social assistance because of a crisis in their lives and may face personal and societal barriers . The initial step in opportunity planning must therefore be to help them resolve some of their problems and restore their confidence in a supportive environment. It may be, for example, that the first priority is finding secure, affordable housing. The next step in Opportunity Planning will be for a recipient to determine what his or her goals are and what the barriers are that may be preventing their achievement. Then planning can move on to such questions as: Do I need educational upgrading or specialized training to be able to compete in the job market? What qualifications do I have now that may lead me in a certain direction?

For a person with disabilities, getting access to support care services or devices may be the key to starting to remove barriers to a more fulfilling life. For a person who does not speak the language, a course in English as a second language may be a necessary first step toward training or a job. The focus of the assessment must be on the individual.

Development of an Opportunity Plan

Recipients should develop individual opportunity plans, with the support of a worker providing information and advice on what programs and services are available. We are concerned that this process not be one of streaming recipients into certain programs or in certain directions. The development of the plan should be a mutual process involving recipient and worker, not a way for the system to tell people what to do. Most people know their capabilities and what is keeping them from realizing their goals. What they often do not know is what is available – where can they get training, where are the good jobs, how can they get help with child care. The plan should set out concrete actions and achievable goals and it should be a document that is signed by a worker and the recipient. Given the importance of the opportunity plan to the rest of their lives, recipients must have the right to appeal the adequacy of a plan which they find unacceptable to the Social Assistance Review Board.

Advocacy, Brokerage and Personal Support

Many of the programs that recipients require to realize their goals are outside social assistance. The training system, for example, is fragmented; all levels of government are involved, as are different educational institutions, community agencies, labour unions and businesses. The system should not only help recipients find an appropriate program, if that is what they need, but also act as a broker and advocate to get them into the program. If the person needs a package of different services from different service providers or a combination of specialized supports, it should be the task of opportunity planning to coordinate the services and supports so that they are available for the recipient.

The advocacy and brokerage role is essential if social assistance recipients are not to be left out of many mainstream programs. The newly-proposed Ontario Training and Adjustment Board (OTAB) is an example. The Ontario Government is restructuring its training and adjustment system and has announced plans to create OTAB to bring together labour, business, training providers and community and social action groups. How OTAB responds to the needs of social assistance recipients could have major ramifications for the system of the future. The OTAB discussion paper, *Skills to Meet the Challenge: A Training Partnership for Ontario*, released in November, 1991, makes one of its top priorities in the area of labour force entry and re-entry the improvement of links between training, adjustment, education and social services.

Social assistance recipients must have access to the new training structure. All too often in the past, even when social assistance recipients were allegedly targeted by training programs, they were left out due to the perception that recipients would compromise the success of the program. If necessary, the social assistance system should be able to purchase program spaces for recipients if there is no other way for them to get access (see Purchase of Service). It is also important that the system not send people with special needs out into mainstream programs to sink or swim. The system should work to ensure that people with special needs have those needs met. Those needs may involve language training for immigrants or special accommodation for persons with disabilities. The personal support role of opportunity

planning is there to ensure that the system delivers on the services and supports that were offered to the recipient.

Purchase of Service

We are concerned that social assistance recipients are often not able to access or are last in line for many mainstream programs and services due to systemic discrimination based on race, gender, culture, and disabilities. Therefore, there should be an option, as part of opportunity planning, for a program or service to be purchased for the recipient from whatever agency or institution delivers it. This may be one away of assuring better access for people receiving social assistance. It may also be one way of overcoming the tendency of some programs to give priority to the most job-ready applicants who have the least number of barriers to success. If recipients are at the bottom of a two-year waiting list for a program or they cannot get in at all, it may be possible for the system to find and pay for a place for them in another program.

Recipients should have a role to play in the purchase of service. Persons with disabilities, in particular, are interested in being able to manage their own attendant services. It is important that an individual be able to choose the attendant who is going to be with him or her on a daily basis, rather than having an attendant assigned. In the government's consultation paper on redirection of long-term care services, there is discussion of allowing persons with disabilities to purchase services, like attendant care, directly or through an agency. The opportunity planning process could be used to help recipients gain access to this kind of self-directed funding option.

Financial Supports

Financial supports are necessary to remove disincentives to employment, education and training that are embedded in the social assistance program. What STEP did was make it financially possible for more people to work while receiving some assistance. Before STEP, many people found that they were worse off working while receiving assistance because they had additional expenses associated with work, such as child care, transportation, and work clothes, and almost all of their earned income was deducted from their allowance. STEP changed that by taking into account the impact of work expenses, and allowing people to keep more of what they earned. We have already referred to the positive outcomes identified in an evaluation of STEP.

The system must continue to provide supports to employment and smooth the transition from social assistance to full-time work. Since the evaluation was conducted, STEP has been expanded to provide financial supports to recipients who are participating in a paid training program. Financial supports on the STEP model must be available through opportunity planning. Supports such as child care and transportation subsidies must also be available to people who are taking unpaid education and training courses, including unpaid training. For many people, education and training are the prerequisite to finding a secure full-time job.

Monitoring and Evaluation

There must also be a monitoring and evaluation of how opportunity planning is working. Are recipients achieving their goals? What impact is this having on the system? Is the system fulfilling its part of the recipient's opportunity plan by providing supports and services? Are dollars being spent appropriately? Evaluation of what opportunity planning can do must be realistic in the context of the Ontario society and economy. Opportunity planning cannot find jobs for people if there are no job opportunities in the community. Identification of barriers will reveal that the highest barriers for many recipients are systemic. A recipient can take all the right training programs, and still not get a job because there is no accommodation for his or her disability in the workplace. It must be acknowledged that no matter how creative and supportive the opportunity planning process is, some recipients will take longer to find training and employment and leave social assistance than others because of discrimination against them in the labour market.

Evaluation of opportunity planning should highlight these kinds of larger systemic problems. In addition, opportunity planning must not be evaluated solely on how many people get jobs. We are concerned that this could lead to a concentration on only the most job-ready. Education and training are important for the longer term; they are the tools that will help people not only get jobs in the new information-based economy, but remain employed over time through increased adaptability of skills. Furthermore, people who are not going to be able to leave assistance must not be left out of opportunity planning. They must have a chance to improve their life opportunities.

Direction 10:

- **Opportunity planning must be defined in legislation as an integral part of the social assistance system.**

- **The purpose of opportunity planning is to assist recipients to overcome barriers to education, training and employment and to assist recipients who may not be able to work to participate more fully in community life.**

- **Equity measures should be implemented as part of opportunity planning to overcome systemic discrimination on the basis of race, gender, culture and disabilities.**

- **Opportunity planning should not be restricted to a particular person or a single job, but should be viewed as a process which requires the expertise and commitment of all staff in the new social assistance system.**

- **Opportunity planning should provide financial and other supports to ensure that recipients obtain access to education, training and employment. Opportunity planning is not intended to provide or become a work, training or education program in itself. It should coordinate social assistance with**

labour market systems and social and other supports and services to improve access for recipients to mainstream programs and services.

- **The functions of opportunity planning should include:**
  - **assessment of and by an individual of his or her goals and the barriers standing in the way of achieving them;**
  - **development of an opportunity plan, including identification by the system of available programs and services and agreement between a recipient and worker as to the steps involved in implementing a plan;**
  - **advocacy, brokerage and personal support by the system on behalf of the individual to ensure that recipients have access to the programs and services they require;**
  - **purchase of service by the system for a recipient, where necessary because services are not otherwise available;**
  - **financial supports, including child care and transportation subsidies and other supports to employment and training to make opportunities for people viable; and**
  - **monitoring and evaluation of the opportunity planning process to ensure that it is achieving its objectives, that recipients are receiving the assistance they require, that tax dollars are being appropriately spent and that the process is subject to continuous evaluation and improvement.**
- **Individual opportunity plans should be developed through a process of mutual consent by recipients and workers. Recipients must have the right to appeal the adequacy of an opportunity plan to the Social Assistance Review Board.**

The Sanctions Debate

One of the major contentious issues around opportunity planning is whether there should be any coercion involved to force recipients to participate. It has been argued that because social assistance tends to foster dependency, it is necessary to give some people a push towards self-reliance. It is an old debate about the carrot and the stick – should incentives to participate be enough or should some people be obliged to undertake opportunity planning? If they refuse, should the penalty be the loss of some or all of their social assistance allowance?

The same questions apply to the requirement in the current system that GWA employables conduct job searches and provide a record of what they have done to look for work. They can be cut off assistance if they refuse.

There is also a GWA regulation that says that employables must accept any job for which they are physically capable.

In *Back on Track,* we attempted to have the physically capable regulation changed to suitable employment, which used to be the condition imposed prior to 1976. The rationale for this recommendation is that physical capability has less to do with individual potential in the job market now than education, skills training and other factors. This action item was not acted upon in the government's response to the report in 1991. We still think it is a sensible move for the interim period before new legislation takes effect.

We also suggested that common sense should be applied to the requirement for job searches. In some municipalities, employable people must demonstrate that they have conducted several job searches a week even when there are no jobs in the community. In a major recession, we said that people should not be forced to go on job searches when such activity is not warranted. We also recommended that criteria be developed for administrators to follow in deciding whether to require job searches. These two action items are being implemented by MCSS.

This Advisory Group is not opposed to job searches, and neither are most recipients. We are only concerned about circumstances where job searches are mandatory missions of futility because there are no jobs available in the community or no jobs for which a recipient has any qualifications. The vast majority of employable people do not have to be told to look for work. They are looking for work or a training program that will help them get a job as a matter of course.

However, the issue of conditionality remains a controversial one. Conditionality means that refusal to participate – in job searches or employment requirements or opportunity planning – is subject to sanctions. You participate or you lose some or all of the assistance provided by the system. This is an issue which attracts public attention. Many people believe that the only way to get recipients to look for work is to require them to do so, and the only way to get recipients off assistance is to force them off.

In reality, most recipients who are able to work want to work and will be eager to respond to an opportunity planning system that offers them ways to regain their autonomy and get a job. In fact, we are concerned that the system will not have the resources to respond adequately to all the recipients who want to participate in opportunity planning. Once voluntary opportunity planning gets up and running across the province, we are convinced that the problem will not be getting people into opportunity planning, but having the staff and other resources necessary to provide the services of opportunity planning.

In short, we expect that recipients will be lined up at the door of opportunity planning. Many recipients are already on waiting lists for training programs, just as most employable recipients are on a constant job search, regardless of whether or not the welfare office asks them to fill out a job search form. No sanctions are required.

There are other reasons – of principle and practicality – why imposing sanctions to punish someone who does not want to participate in opportunity planning should be avoided. We believe that the rights of every Canadian should be respected in the social assistance system, and that no one should be threatened with a reduction of assistance that is providing the necessities of life – food, clothing, shelter and personal needs – because they are deemed by

the system to be uncooperative. There are many reasons why an individual may not want to engage in opportunity planning.

Some recipients may not need it. They may be on social assistance because they ran out of Unemployment Insurance benefits, but they expect to become re-employed as soon as the economy opens up. Or they may have their own plan in progress; they may be partly through an educational or training program and need a child care or transportation subsidy to be able to finish.

Others may not be ready because of personal problems. Many people who apply for social assistance are at some crisis point in their lives; otherwise, they would not be in need. Resolving personal problems may have to take precedence over getting into a training program immediately. Some recipients may take a little time to develop some faith that opportunity planning is not a waste of time if they have had negative experiences with training or other programs which have led to disillusionment when there have been no job opportunities at the end.

A major issue for making opportunity planning voluntary is motivation.

If opportunity planning is to be successful, people who are able to work should end up with a good job. But recipients who are forced to participate will be unlikely to succeed. There must be personal motivation and the confidence to succeed. This has been established by experience in other programs and in other jurisdictions. The system can encourage people to participate, but if they are at a stage in their lives when they cannot handle the challenge, forcing them into a program will just produce anxiety and resentment. They may go through the motions of participating, but the results will likely be unsatisfactory to them and to the system. Scarce training spaces and taxpayers' dollars should not be wasted on someone who is not ready.

People who are receiving social assistance have already been sanctioned by society. Society has consigned many of these people to life on the margins of the community, in poor housing in poor districts. The educational system has failed many of them; the percentage of recipients who have not completed high school is much higher than the general population. Further sanctions are not appropriate.

When SARC looked at this issue, it opted for limited conditionality. *Transitions* recommended that there be a category of recipients who would be encouraged to participate in opportunity planning and a category of people who would be obliged to participate. Specifically, persons with disabilities, sole support parents, elderly and temporarily unemployable people were exempted from conditions. Others were to participate in opportunity planning as a condition of receiving full social assistance benefits.

SARC was careful to say that a reduction in assistance should be great enough that it is clearly perceived to be a sanction, and not so substantial as to cut off assistance completely. Children's benefits should be protected from such sanctions, as should assistance to youth aged 16 or 17. There should be a grace period of perhaps two months before any sanctions could be imposed. The decision to reduce assistance should be appealable to the Social

Assistance Review Board. Conditions would only be appropriate, SARC said, if opportunity planning were provided to the recipient and appropriate programs and services were available.

Transitions reasoned that for most people, a policy of conditional entitlement is not necessary, but for a small number, such a policy is appropriate. SARC said that those who might refuse to participate, when able, are those most at risk of long-term exclusion and dependency. Based on the principle of mutual responsibility, *Transitions* said that if the state provides meaningful opportunities, it is reasonable to expect recipients should fulfil some responsibilities too. This policy, SARC said, will also encourage the government to fulfil its part of the bargain.

Like SARC, we endorse the principle of mutual responsibility. But we see a stark imbalance in the relationship between a single recipient and the state. It can hardly be called a balance of obligations when on one side is the state, with all its resources, and on the other, is one individual, who is dependent on the assistance of the state for economic survival. The state does not need the additional power of coercion on its side. Many recipients feel intimidated enough by the system, without facing a reduction in their assistance if they do not take up an offer of opportunity planning when the system decides they should.

There will always be a few people who abuse any system – not just social assistance, but any system. There will be a small minority of recipients who will reject any offers of help to become more self-sufficient. However, we do not wish to design the new social assistance system around this small minority. It should be designed for the vast majority who will be more than willing to participate in opportunity planning – who would participate tomorrow if the system offered the service. As *Transitions* said, most people who are able to work and who are receiving social assistance want to work, but there are often many obstacles in their path. Opportunity planning will help to remove those obstacles. Those who do not participate will miss out on the supports and services provided through opportunity planning; that, in itself, will be considered a sanction.

We reiterate our concern about resources for opportunity planning. In the current fiscal climate which appears to extend into the foreseeable future, it is unlikely that the system will be able to gear up to provide opportunity plans for every employable person. We anticipate that if the opportunities provided are meaningful, literally tens of thousands of recipients will be eager to participate. The system will be hard-pressed to respond to the demand. In those circumstances, conditional entitlement becomes irrelevant. It is not reasonable to make opportunity planning compulsory if the system may not be able to offer it to everyone who is required to participate.

Finally, it is important to look at this issue from the perspective of a new unified system. There will be no more GWA and FBA. There will be one system which has only two categories of eligibility: persons with disabilities and all others. The current categories of employable, temporarily unemployable and permanently unemployable will no longer exist. When people come to the system for assistance, they will no longer be channelled into groups of people who have to do job searches and groups of people who are exempt from job searches. All recipients will be told about opportunity planning as the process whereby they

will be able to get access to services and supports which will help them to overcome obstacles to education, training and employment and to greater participation in community life. They should not be forced to participate. If opportunity planning is as positive an experience as we hope it will be, they will choose it as the best option available for their future.

Direction 11:

- **Opportunity planning will provide recipients of social assistance with access to services and supports leading to education, training and jobs. There should be no sanctions against those who do not participate.**

Living on Social Assistance

"There are some loud voices that claim that we cannot afford the changes that move toward greater adequacy and justice. Yet what vision do they offer in return? It is our suggestion that our social vision must be one that celebrates our common humanity and recognizes that where one person suffers in the community, the humanity of the entire community is diminished. Even in a more self-serving way, to not implement changes will mean longer term costs in diminished health, less educated workers, increased crime rates and fractured communities."

Interfaith Social
Assistance Reform Coalition

An Adequate Standard of Living

It is a fundamental principle for this Advisory Group that people receiving assistance should be able to have an adequate standard of living by the norms of the wider community. We have heard a great deal from recipients themselves, through focus group discussions and submissions to public consultation meetings, about how difficult it is to get by on what social assistance provides today. One of the major messages we heard from recipients is that social assistance allowances are not realistic, given the expenses that people have to cover, on a day-to-day basis.

One participant in the focus groups for persons with disabilities summed it up this way: "I think that the basic problem and you've probably heard this everywhere you go, but its still the bottom line is that there is not enough money. There isn't."

Another recipient explained that many people do not have enough money after paying for food and rent to buy housekeeping and cleaning supplies or over-the-counter items such as bandages and soap. "It is hard to provide the kids with healthy meals," said one mother, one of many who said that they worried because they could not afford healthy food, such as fresh fruit and vegetables, for their growing children. People who need special diets or whose children need them have even more difficulty. Many recipients turn to food

banks when there is no food left and the next assistance cheque is not scheduled to arrive for another week.

Watching their children "do without" is one of the hardest things for parents on social assistance. Children are singled out at school because they cannot afford the clothes or shoes that their peers have. They are left out of special events at school that require paying a fee to participate. They cannot participate in sports or recreational activities without the proper equipment.

People on social assistance make a lot of tradeoffs. One recipient talked about buying an aero-chamber to help with asthma, instead of paying the telephone bill one month. But then there was the worry that something else would come up the next month. If the phone bill got put off too often, the phone would be cut off.

The overall allowance paid per month is so low that it is virtually impossible to budget for everyday necessities. Unexpected emergencies are another matter again. They generally precipitate a financial crisis. One mother from Eastern Ontario talked about the difficulty of visiting her son in hospital in Toronto, without any assistance with transportation or child care. Friends helped her out, "but that week practically bankrupted her."

Transportation is a problem for many people. People who are trying to find work have to be able to get to job interviews and to the federal Employment office to see what is available. Parents have to take their children to doctors and dental appointments. If there is no money for the bus, or if they live in a rural area where there is no transit, there is no way to get to any distant destination.

There is much public misunderstanding about what social assistance provides in the way of allowances and benefits. We have tried to address some of the common misperceptions in Chapter 3 on poverty and social assistance when we showed the rates that are paid and compared them to the poverty line and low-income cut-off levels. Clearly, allowances paid by social assistance provide for only a very basic standard of living, well below what the majority of people in our society would consider adequate for themselves. Unfortunately for people on social assistance, many people tend to think that recipients should live on as little as possible because they are living at public expense.

It strikes us that people would be more supportive of a more adequate standard of living for people receiving assistance if they saw clearly what that allowance was based on and what goods and services it was meant to provide. At the moment, social assistance rates are not based on any particular benchmark. A market basket of goods and services offers a way of providing the Ontario government, which sets social assistance rates from year to year, with a concrete benchmark against which to measure whether or not people who receive social assistance have enough money with which to live a decent life. This benchmark will also help to show the public what kinds of things social assistance pays for in very specific terms.

This chapter describes how a market basket would work. It also examines the cost of shelter, which is treated separately from the market basket. Recipients told us of many

problems getting special needs, such as medical requirements, met. Special needs are dealt with in the next chapter.

A Market Basket

In the current system, social assistance allowances are adjusted on an ad hoc basis. An increase in rates may be related to the economic situation, wage rates or the fiscal position of the government. It may be related to the political agenda of the day. Whatever the reasons, there is no benchmark against which to measure the adequacy of the living allowance provided to people in need.

We support the proposal in *Transitions* to use a market basket approach. A market basket is a list of the costs of the goods and services that together make up the necessities of daily living. Some of the goods in the list would include food and clothing; toothpaste, soap and other personal items; laundry supplies and other housekeeping materials. Services would include such items as the cost of a telephone. The one major cost category not included in the market basket is shelter, which is dealt with separately under the shelter allowance.

Before choosing the market basket approach, we considered whether there were other benchmarks that might work well, such as one of the various poverty-line income standards. Statistics Canada develops its low-income cut-off levels by measuring the percentage of income spent on food, clothing and shelter for different household sizes. The cut-off is now set at 58.5 per cent of income; this is 20 percentage points above what the average Canadian household devotes to these basic necessities. It indicates that homes below the income cut-off do not have much left over for all the other things that people need to live. However, the cut-off is not needs-based; it is based on actual spending patterns. And, unlike the market basket, it does not show what certain incomes buy in today's market.

A Valid Benchmark

One of the important advantages of basing rates on a market basket of goods and services would be that everyone, including members of the public, could see what is included. They could compare the basket to their own budgets and see for themselves that the components of the market basket do not lend themselves to a lavish lifestyle. The market basket would help to focus the debate over social assistance more on how people live. Today, it is almost exclusively concentrated on the overall cost of the system.

The market basket is not an entirely objective standard; there is an element of judgment involved in what items are included. This is where the standards of society as a whole come into play. When a certain portion is set aside for food in the basket, it is not meant to represent the minimum caloric intake per person for survival. The food calculation should be related to nutritional value, but it must also be related to the norms of the majority in Ontario society. That means that it must allow for a certain amount of variety of food, and it must also allow for cultural differences. If nearly every household in Ontario has a telephone, then a telephone becomes part of a societal standard. A telephone might also be included, not simply on the basis of how many other homes have one, but how important it is to modern daily life

as a lifeline for emergencies and as a means for making doctors appointments, keeping in touch with a child's school or searching for work.

The market basket approach is not new. The Consumer Price Index (CPI), which keeps track of prices to measure the rate of inflation, is a market basket. The Social Planning Council of Metropolitan Toronto has published *Guides for Family Budgeting* for a number of years. It prices a market basket for the Toronto area and uses it to determine a norm for income adequacy, based on both physical and social needs. A general rule it uses for including items in the basket is if 70 per cent or more households in Canada have a particular article, then it is considered a social necessity.

We believe that having a market basket in legislation would provide a valid benchmark for the government and the public to measure the adequacy of social assistance rates. The government, in its role as steward of the taxpayers money, must ultimately decide what the rates will be. But it should decide based on something other than the current political climate or agenda. Some people suggest that the condition of the economy should be taken into account in considering any rate increase. The government may indeed use the economy as one of its criteria, and we do not suggest that the economy is irrelevant. However, we must point out that the total costs of social assistance rise in hard times not because the people in the system are living any better, but because there are more people in need who are relying on social assistance.

Legislation should require that the social assistance rate structure be set with reference to the market basket. That will not predetermine what the rate structure will be, but it will require that there be a response to the market basket as a benchmark of adequacy. Having the market basket in legislation will not remove the prerogative of the government to set rates. But it will send a powerful message about what people require to live on and it will prompt a debate about how far the rates set by government meet the benchmark of adequacy.

Components of the Market Basket

Legislation should specify the broad categories that must be included in the market basket, but these categories should not be viewed as all-inclusive. They are the minimum. The schedule of individual components under each of the categories would be attached to the regulations of the Act. The descriptions and explanations below are not meant to cover everything; they simply give an idea of what the categories mean.

Food - Budgets for food should provide adequate nutrition at moderate costs; allow sufficient variety for individual tastes; include foods that are readily available; reflect dominant patterns of food use; and allow for cultural differences.

Clothing - People must be able to buy low cost, durable clothes that meet a certain social standard. They also need money for shoe repairs and some dry cleaning.

Personal care - This includes personal hygiene items such as toothpaste, soap, haircuts and shaving supplies, and basic household medical supplies, such as over-the-counter drugs and bandages.

Communication - The major item is a telephone, but there should also be some allocation for a newspaper (for people to read the job ads and get the food sale coupons, for example), an occasional magazine or paperback book.

Transportation - This could include public transit fare or upkeep on a car, especially in remote areas, if the recipient has one.

Home furnishing and equipment - This category includes an amortized amount for repair and replacement over time of small appliances and repair of furniture.

Household operation - This includes necessities such as laundry and other cleaning and maintenance supplies, and paper supplies, such as toilet paper and paper towels.

School needs - Children in school need swim and gym clothes, a lock for their locker and books in the higher grades. They are asked for money for field trips and extracurricular activities. Children whose parents cannot afford these things are unable to participate fully and are stigmatized as a result.

Insurance - This includes a modest level of life insurance and house or tenant insurance.

Recreation - This category might be considered a luxury by some, but for a disabled person living alone or a lone parent, watching television or getting out to the occasional movie may be their principal social activity. There should also be some allocation for toys and games for children.

Disability Allowance

We have recommended that persons with disabilities continue to receive a supplement to the basic allowance to cover their additional costs. This supplement will continue to go to all persons who fit the category. The market basket approach should also be used to calculate what this additional allowance should be. It would provide a second benchmark on which to base an adequate living standard for persons with disabilities. Again, the market basket will help to illustrate why the additional allowance is necessary and what items it would be expected to cover.

We have deliberately not included health care in either the basic market basket or the one for persons with disabilities. One of the most important benefits of social assistance for many recipients, but particularly for persons with disabilities, is the drug card which covers the cost of drugs approved by the Ministry of Health. It is impossible to average the costs of health care. Some people need $200 or more worth of drugs a month just to function; others need the occasional antibiotic for an infection. We discuss the issue of health care items further under special necessities in the next chapter on Special Needs.

Update and Review

A market basket must be updated and reviewed regularly. It is not something that is fixed forever; it is related to current costs and current social standards. Legislation must set out the

process and timing for regular updating of the goods and services in the market basket. Costs vary from year to year; there must be a process for taking annual increases into account. The updating should use the various components of the Consumer Price Index (CPI) that correspond to the categories in the market basket. For example, it will be possible to look at the increase in food prices in the CPI to assess how much the food category in the market basket should be increased.

In addition, every five years, there must be a review of the components (not just the costs) of the basic market basket and market basket for persons with disabilities to ensure that they are still appropriate. The Council of Consumers described in Chapter 12 should play an active role in helping to create the first market baskets and in the annual updating and five-year reviews. Legislation should specify that the market basket, its annual updating and five-year review be a matter of public information. This updating and review process must also apply to the market basket for the disability supplement.

Direction 12:

- **A market basket of goods and services that meets societal standards for an adequate standard of living should be developed and maintained as a benchmark for the social assistance system.**

- **Legislation should require that the social assistance rate structure be set with reference to the market basket. The Act should specify the broad categories that must be included, as a minimum, in the market basket.**

- **Legislation should require that the costs in the market basket be updated annually, based on the relevant components of the Consumer Price Index. In addition, every five years, there should be a review of the components of the market basket to ensure that they remain appropriate to the needs of modern living.**

- **The market basket, its annual updating and five-year review should be a matter of public information.**

- **Legislation should also establish a market basket for persons with disabilities to provide a benchmark on which to base the disability supplement. The same process for updating and review should be conducted for this market basket.**

Specialized Allowances

We have already noted that medical requirements are too individualized and too variable to be included in a market basket. They are discussed in the next chapter on special needs. In that chapter, we also discuss provision for emergencies. If social assistance rates in future provide for an adequate standard of living, recipients may be able to afford to save a small

amount on a regular basis for unexpected costs, like a child losing her coat or a small appliance in need of repair. But major emergencies are not predictable and an emergency benefit should be available on an as-needed basis.

In addition to the above, there are other specialized items which should also be recognized outside the market basket. They are specialized allowances for specific purposes. These payments are provided in the current system and we believe that they should be retained in new legislation.

Children

In the existing system, there are annual payments made for winter clothing for children and for returning to school after the summer holiday. The winter clothing allowance is $104 per child and the back-to-school allowance is $68 for children age 4 to 12 and $126 for children 13 and older. These payments are made to contribute to expenses once a year at a certain time. If they were included in the market basket, the amount would have to be spread out over the course of the whole year, and it would provide a very small additional amount per month. If the basic allowance were adequate, families would be able to save some extra per month for winter or school clothes for the children. But under the current circumstances, most families would probably spend the little extra per month on food or other necessities. The purpose of the specialized payments would be lost.

Employment Start-Up

The current system also has a start-up payment of up to $250 for employment or training to help to defray the costs of starting a new job or a training program. Many people need clothes or a uniform for work, and supplies for training. This payment only goes to people who are starting work or training so it must be retained as a separate item.

Community Start-Up

There are differences in need between a family that already has a place to live, with furnishings and equipment, and a mother and children who have fled the home because of abuse, or a refugee family which has arrived in Canada with nothing. If the cost of starting a whole new household were factored into the market basket, it would boost incomes well over what would be needed or socially acceptable. Instead, the system should retain the community start-up allowance. The community start-up allowance is designed to assist recipients who set up a new residence in the community. It provides a maximum of $791 once a year for moving, last months rent, furniture, pots and pans and other such items. It was originally called a discharge allowance and only went to people who left institutions to live in the community. It was recently expanded to cover other circumstances for establishing a new residence, such as a disabled adult who has been living with elderly parents and who moves into his or her own place to live independently.

Northern Allowance

We concluded that it should not be necessary, and it would certainly be unwieldy, to have different market baskets for different regions of Ontario. Surveys conducted by SARC revealed that differences in costs are not significant other than in shelter, which is not part of the market basket for different parts of Ontario, with the exception of isolated communities in Northern Ontario. Transporting goods to these communities, some of which are only accessible by air, puts the costs considerably above the average for the Province. The existing allowance for Northern isolated communities should be maintained.

These payments should remain outside the market basket calculation of costs, but like the market basket they should be updated and reviewed, with the active involvement of the Consumers Council.

Direction 13:

- **The following specialized allowances should be retained in new legislation:**
  - **winter clothing allowance for children;**
  - **back-to-school allowance for children;**
  - **employment start-up allowance;**
  - **community start-up allowance;**
  - **Northern allowance for isolated communities.**
- **These allowances should be subject to annual updating and regular review.**

Shelter Subsidies

Poor people tend to have to spend a disproportionate percentage of their income on housing, compared to people with greater financial resources. This is especially true of people receiving social assistance. The burden of housing costs has been identified as one of the critical factors in forcing many recipients to rely on food banks. The vast majority of people on social assistance rent in the private market. Only one in six recipients lives in public housing. Among the rest, significant numbers spend over half their disposable income on housing. Spending this proportion of the household budget on housing inevitably cuts into the money for food and clothing.

Since *Transitions*, the government has revamped the structure of the shelter subsidies, eliminating a convoluted system of reimbursement zones. It has also provided greater increases in shelter subsidies than the basic needs allowances. The current shelter structure provides a modest basic shelter subsidy to all recipients, which varies by family size, up to six people. Actual shelter costs which are higher than the basic shelter are paid 100 per cent up to a ceiling, which also varies by family size, up to six people. The amounts are shown in Table 5.

Table 5

Shelter Subsidies - Renters and Owners
January 1992

Family Size	Basic Shelter	Shelter Ceiling	Margin
1	$120	$400	
2	$185	$625	$225
3	$210	$680	$55
4	$220	$740	$60
5	$230	$795	$55
6+	240	$825	$30

Even with the recent improvements, there are still a significant number of recipients who are paying housing costs above the shelter ceilings. For example 37.5 per cent of the combined FBA/GWA caseload were over ceiling in March, 1991. Those most disadvantaged by the current structure are single people; the margin between a one and two person household is $225; after that, the margin is only $60 or less. There is no additional margin for households of more than six, and this size of family usually needs to rent a house to accommodate everyone.

An analysis of actual shelter costs paid (excluding recipients who are boarders and those living in public housing) shows that there is wide variance. For example, among the GWA four-person households, the average paid was $728, but costs varied from a low of $186 to a high of $1,005. The lows reported in the analysis tended to be concentrated in two or three remote communities, but they serve to illustrate the range. The higher costs tended to be paid in larger urban areas, and approximately two-thirds of the FBA and GWA cases live in Ontarios big cities. Table 6 shows how the shelter ceilings compared with private market rents in the 10 largest urban areas Ontario in January, 1992, using the CMHC survey. The centres are Toronto, Hamilton, London, St. Catharines-Niagara, Kitchener, Oshawa, Ottawa, Sudbury, Thunder Bay and Windsor.

In considering what should be done about shelter costs, the Advisory Group decided that it is important to have shelter ceilings which are clearly based on actual costs in the marketplace. Currently, the shelter ceilings are not tied to an objective measure of need or conditions in the housing market. In addition, there are significant numbers of recipients paying over the ceiling. There are many other recipients who are living in sub-standard housing to stay within the shelter ceilings.

Table 6

Shelter Subsidy Ceilings (January 1992)
and
Weighted Average Rents in Large Urban Centres[1]

Family Size	Social Assistance Shelter Ceiling	Average Rent (Apartment Type)
1	$400	$444 (Bachelor) $547 (One Bedroom)
2	$625	$547 (One Bedroom) $670 (Two Bedroom)
3	$680	$670 (Two Bedroom) $808 (Three Bedroom)
4	$740	$808 (Three Bedroom)

[1] *CMHC Rental Market Survey as of October 1991.* Ontario Ministry of Housing, Strategic Planning and Reseach Branch, February 1992.

Heating Fuel

We are also concerned that heating fuel is rolled in with the shelter formula. Heating bills, particularly in Northern Ontario, are a major drain on household income. Many tenants are responsible for paying for their own heat, even in apartments. The formula that is now used in the system for calculating payment for fuel costs is tied into the variable shelter cost, which is the difference between the basic shelter subsidy and the shelter ceiling.

Take an example of a family of four in a three-bedroom apartment: The shelter ceiling is $740, made up of $220 basic and $520 variable; the family pays $800 rent, including utilities, and $100 heating bill. The family will receive the $740 ceiling, and have to take the additional rent and heating costs out of the basic allowance for food and clothing. The only way that the family would receive more would be if the fuel bill were higher than $520 (the variable shelter component); if the fuel bill were $600, the family would receive the basic shelter ($220) plus the fuel cost of $600 for a total of $820.

We are concerned that many people are not getting their fuel costs covered. In a province where there are at least five months of winter weather in the south, and much longer and much colder winters in the North, it is imperative that people be able to pay for heat. They should not have to make a choice between paying the rent or keeping their home heated. We propose that fuel costs be paid separately from shelter, up to a ceiling that is sensitive to regional differences.

Shelter Ceilings

We also recommend that the system do away with the basic shelter component and simply pay actual shelter costs up to a ceiling. This approach to shelter will be much easier for people to understand and simpler to administer than the current shelter-fuel formula. We understand that some people will be disadvantaged by this change because they receive the basic flat rate shelter subsidy even though their rent is actually less. However, we do not think that the current formula should be maintained for that reason. These people could have their shelter rate frozen until their rent exceeds the old basic rate. Then, like everyone else, they would receive their actual rent up to a ceiling. Utilities should be included in the shelter costs, as they are currently, unless they include the heating bill, in which case they should be reimbursed up to the fuel cost ceiling.

The shelter ceiling should be based on a weighted average of the average rents in the largest urban centres surveyed by the Canada Mortgage and Housing Corporation. (CMHC) The average is weighted towards the higher rents in larger centres because it takes into account how many more units are located in the big cities. Since so many recipients live in large urban areas, a ceiling based on the weighted average would be closer to what they are actually paying than the existing ceilings.

Direction 14:

- **Actual shelter costs should be reimbursed up to a ceiling, based on household size. A weighted average of the average rents in the largest urban centres surveyed by the Canada Mortgage and Housing Corporation (CMHC) should be used to calculate the ceilings.**

- **The flat rate for basic shelter should be abolished. People whose rents are lower than the flat rate should continue to receive the flat rate until their rent exceeds it, at which time they should be reimbursed for actual costs up to a ceiling.**

- **Heating fuel costs should be calculated separately from shelter and paid at actual costs up to a ceiling sensitive to regional differences. Utilities should be included in the shelter ceilings, except where they include heating costs; in that case, they should be calculated as fuel costs.**

Meeting Special Needs

Introduction

The market basket that we propose in the previous chapter is designed to provide a benchmark for a reasonable standard of living on a day-to-day basis for people receiving assistance. But there will always be other expenses that are not covered by the basic allowance, even if rates rise well above what they are today. In some cases, those extras are necessities which must be covered on an ongoing basis, such as medical requirements. In other cases, they may be periodic problems, such as a leaky roof. It is important to ensure that new legislation provide ways to cover these eventualities. In a poor household, the furnace breaking down in winter can be a full-fledged financial disaster. Repairs must be made to avoid freezing, but they may take an entire month's allowance. These special needs benefits should be available not only to recipients of social assistance, but to the working poor. Helping a working person or poor family over an emergency with a special needs benefit may be what is necessary to ensure that they do not lose their financial independence.

> *"We cannot expect to reduce people to an absolute poverty level before providing them with any assistance because the lower they 'sink', the more difficult and lengthier the process of 'rebuilding' will be."*
>
> Cambridge
> Active Self-Help

The Existing System

In the existing system, the Special Assistance and Supplementary Aid programs are supposed to provide for some special needs. Special Assistance is provided under GWA to welfare recipients and to people who are not receiving social assistance but who may have access to this program if they meet the needs test. Supplementary Aid is provided to recipients of FBA and to others receiving these government benefits: Old Age Security, Canada Pension, and Vocational Rehabilitation Services.

Both programs are administered by whatever delivery agent is providing GWA, usually municipalities. Both programs are mainly discretionary; that is, the delivery agent can choose to provide special or supplementary items and services or not. These programs are cost-shared with local governments, and in the current fiscal climate, many municipalities have been forced by budget pressures to limit or reduce what special needs can be provided. Some municipalities have a tradition of providing a whole range of benefits under these programs, while other municipalities provide little or nothing.

GWA regulations list several items and services that may be provided as Special Assistance on a discretionary basis. The items and services include: drugs, surgical supplies and dressings, travel and transportation allowance, moving allowance, funerals and burials, dental services, prosthetic appliances including eyeglasses, vocational training or retraining, personal needs allowance and any other special service, item or payment in addition to the above as authorized by the Director. There are few guidelines specifying the appropriate use of discretion in providing any of these items or services. The GWA Act also refers to other items that are considered separate from the basic allowance, including special diets, pregnancy allowances, community start-up allowances and winter clothing and back-to-school allowances – except for special diets, these items are considered mandatory.

Supplementary Aid is essentially the same as Special Assistance except that it is provided to a different group of clients and it is cost-shared differently. There is no specific list of discretionary special needs items in the FBA regulations as there is in GWA. However, there are some items that are considered by and large to be mandatory benefits, including life insurance premiums, special diets, pregnancy allowance, travel and transportation, care for guide dog, discharge benefits, winter clothing and back-to-school benefits for children. Home repairs may require prior approval of the Director. Additional expenses such as unusually high shelter costs and other special living expenses may also be considered as Supplementary Aid.

Special Needs In A New System

In a new unified social assistance system, there will no longer be Supplementary Aid for FBA and Special Assistance for GWA. There will be no need for two separate programs because all recipients will be in the same social assistance program. There are two major problems with the existing situation: The provision of special needs is at the option of the delivery agent, and funding is, at best, insecure. Both these issues must be addressed in new legislation. Supplementary Aid and Special Assistance must be replaced by a new special needs benefit, one which ensures that people receive special necessities on a mandatory basis.

The optional nature of special needs in the existing system has led to wide gaps in provision of benefits from community to community. The major reason for the gaps is funding. Some municipalities can afford to contribute their share of funding – 20 per cent for costs incurred under Supplementary Aid and 50 per cent of items under Special Assistance – while others cannot. A survey of 12 municipalities conducted in 1990 by the Benefit Structure Project Team found that average annual spending on Special Assistance per GWA case ranged

from $49 to $532, and average annual spending on Supplementary Aid per FBA case ranged from $29 to $547.

Even in communities where Special Assistance and Supplementary Aid are provided, people may not be able to get what they need. For example, some municipalities provide only part of the money for a necessary item. Those who cannot afford to make up the difference in the cost, may approach charitable organizations. However, charitable organizations are facing their own financial difficulties and are often unable to meet the demand. Recipients then either pay for the item out of their own benefits, or do without. In other cases, social assistance is supposed to supplement other programs. Assistive devices are a common problem; a disabled person may receive 75 per cent of the cost of a device from the Assistive Devices Program of the Ministry of Health, but be unable to get the other 25 per cent from municipal welfare.

The whole issue of cost-sharing is dealt with in the next chapter, but these examples illustrate the vulnerability of people in need when the programs that allegedly provide special needs assistance may or may not be available or may be available in only a limited way, depending on whether their local community can come up with the money. We recommend in the next chapter that senior levels of government take responsibility for full funding of social assistance. This must include all special needs benefits.

Mandatory Special Necessities

The first recommendation in *Back on Track* sought to remedy one of the major human problems in the system – the fact that some recipients are denied necessities of life because these items are only provided at the option of the local delivery agent as items of Special Assistance or Supplementary Aid. We agreed with a recommendation in *Transitions* that certain items be designated as special necessities and that these be made mandatory. These items are essential when the need arises.

We reviewed the examples from *Transitions* and included the following as indicating the major categories of need. We cautioned that the list was not exhaustive:

- needs related to food, clothing, shelter and personal requirements, such as first and last month's rent, fuel deposits, special clothing, basic appliances, furniture, home repairs and special transportation costs;
- emergency items, such as emergency transportation;
- medical requirements such as dentures, wheelchairs, gastro-urinary and respiratory supplies and bandages; and
- expenditures that are required by law, such as funeral and burial expenses.

We were pleased when the government initially agreed to implement this important initiative as part of its response to *Back on Track*. The government also agreed to cost-share special necessities at 80 per cent for GWA and 100 per cent for FBA, and to standardize the

needs tests for Special Assistance and Supplementary Aid. We considered this a major step forward.

With certain items listed as special necessities, it would no longer matter where a recipient lived in Ontario – if he or she needed dentures or a wheelchair or some other special necessity, they would be provided. The items listed would be provided on a mandatory, not an optional basis. We were aware that work was underway in MCSS to draw up a comprehensive list for approval by the government. It was not until late in 1991 that we were informed that because of provincial fiscal constraints and rising caseloads, only three items were actually made special necessities: diabetic supplies, surgical supplies and transportation for medical purposes.

Recipients felt let down, particularly persons with disabilities, many of whom believed that they would finally be assured of receiving items and services of special necessity. We are concerned that people will continue to go without or have to plead to get what they need. We can only express our deep disappointment. However, there is a positive outcome. Special necessities have at least been recognized under existing legislation, and we hope that funding will be made available for more items, particularly medical requirements, as soon as possible.

We recommend that when new legislation is enacted, a comprehensive list of special necessities be included in the Act as mandatory benefits, with secure funding. We continue to believe that the items proposed by *Transitions* and *Back on Track* make a reasonable starting point for a list of special necessities. Some of these are ongoing essential needs (special diets) and some are periodic (home repairs).

An Emergency Benefit

We make a point of singling out emergencies from the list of special necessities to create a separate benefit. This short-term benefit – which could provide up to a month's assistance to people in need – should be available to deal with circumstances not covered elsewhere in legislation. There must be an emergency benefit available for people whose circumstances cause them to fall through the cracks.

There will always be some circumstances that place people in need, even in desperate need, but that do not fit within existing provisions in legislation.

The emergency benefit could provide a necessary item that does not fall within the criteria for special necessities. We have already made reference to the possibility of providing short-term emergency assistance to people who are involved in labour disputes where there is real distress.

There is a provision for emergencies in the existing system. Administrators have the discretion to provide immediate, short-term aid, even before the formalities of a written and validated application are completed, for people who are in extreme circumstances. People come to welfare offices when they have no food or no place to stay, and something must be done quickly.

The criteria for provision of emergency assistance should include circumstances where an applicant is homeless or is in imminent danger of losing shelter or having heat and utilities disconnected; is without food; or needs emergency transportation. For example, there are travel grants in the North for people to travel for medical treatment, but these grants are not provided on an emergency basis. An emergency benefit could be provided at the time that it is needed, and the health travel grant paid to social assistance when it finally comes through. The criteria cannot be expected to specify every circumstance. There would have to be a general provision covering emergencies not specifically mentioned.

Dental Services

Transitions recommended a comprehensive dental care plan for all low-income persons. Basic dental care is available under FBA to children and persons with disabilities, but not to other adults, such as single parents and elderly persons, who are restricted to emergency dental work. Under GWA, some municipalities provide extensive dental services, some provide only emergency coverage and some provide none. *Back on Track* recommended that FBA extend basic dental care to single parents and others, and that dental services be included as a mandatory special necessity in GWA. This short-term action item was not acted upon by the government. In the new social assistance system, there will no longer be a distinction between FBA and GWA. We are also aiming to achieve greater consistency in the benefits available to consumers across the province. New legislation should make basic dental services a mandatory special necessity.

One of the concerns suggested to us after *Back on Track* was that providing basic dental care would be too expensive. But providing only emergency dental care is a false economy. Basic dental care includes prevention, which in the long run saves individuals from requiring drastic dental work, and saves the system from having to pay for it. In addition, there are alternatives to sending everyone to a private dentist's office. The Ministry of Health has a program in the schools, called Children in Need of Treatment (CINOT), which provides dental treatment for children. Some communities also have public health dental clinics which have had considerable success in keeping people's teeth healthy and achieving cost efficiencies. Different models might work in different communities.

Discretionary Benefits

In advocating that there be mandatory special necessities, we should not preclude some other benefits being available on a discretionary basis. These would not be essential or urgent, but make an important contribution to the quality of life. A discretionary benefit might be non-emergency home repairs or special school-related needs for children. Criteria should be developed to indicate circumstances in which discretionary benefits should be provided.

Needs Tests

Recipients of social assistance should automatically be eligible for special needs items on the basis of need. But a needs test will also be required to allow members of the working poor to have access to some special needs benefits to help them over a difficult period. Help with a

special need in an emergency may allow some members of the workforce to keep working, rather than having to go on assistance full-time. Assisting people to continue working is better for them and better for the system.

Many municipalities already provide benefits to the working poor, using a needs test. However, needs tests are not standardized or applied consistently across the province. There is no test required for Supplementary Aid, and the needs test for Special Assistance is only partially regulated. Standardization of the needs test for Supplementary Aid and Special Assistance was one of the action items of *Back on Track* accepted by the government.

Needs testing is not a simple issue, and there are different needs tests for different programs, such as child care, legal aid or homemakers services. It also makes a substantial difference how the test is applied. For example, if an applicant's expenses are taken into account to determine disposable income, the test may make someone eligible who has a fairly large income with large debts, an expensive mortgage, while someone who has a lower income, but few expenses, might be disallowed using the same test. Another variable is whether the needs test has an either-or result – that is, if you fall under the income limit, you are eligible, if you are over it, you get nothing – or whether the test can be graduated to avoid what is known as the notch effect. The notch effect refers to the cut-off when one family with income of, say, $18,000 gets access to all the benefits and another family with $18,001 gets nothing.

It is not our intention to expand social assistance into a program which serves the middle class. Therefore, in calling for a simplified and standardized needs test for special needs, we specify that it must remain for low-income persons, based on financial need.

Direction 15:

- **New legislation should include a comprehensive list of special necessities as mandatory benefits. The following list is not exhaustive:**
  - **needs related to food, clothing, shelter and personal requirements, such as first and last month's rent, fuel deposits, special clothing, basic appliances, furniture, home repairs and special transportation costs;**
  - **expenditures that are required by law, such as funeral and burial expenses; and**
  - **medical requirements such as dentures, wheelchairs, gastro-urinary and respiratory supplies and bandages.**
- **A short-term emergency benefit should be available to help people in extreme circumstances. Criteria should be established to provide guidance in determining what qualifies as an emergency, including actual or imminent loss of shelter, lack of food and need for emergency transportation.**

- **Legislation should include dental care, both emergency dental treatment and basic preventive dental services, as a mandatory special necessity.**

- **Legislation should also include a discretionary benefit to cover important but non-essential special needs.**

- **There should be a simplified, standardized needs test for low-income persons to determine eligibility for special needs benefits. People receiving social assistance should be automatically eligible for special needs benefits.**

The Issue of Mainstreaming

We have recommended that special necessities be included in legislation so that there is protection for those in need of such essentials. However, there is an issue related to special necessities which poses a critical dilemma for us. This conflict surfaces as well in other areas of discussion of the future of social assistance. It has to do with mainstreaming. The concept of mainstreaming refers basically to moving from the margins to the centre. That may sound simple enough, but in its application, mainstreaming can be a double-edged sword.

Mainstreaming can refer to moving people from the margins of society towards greater participation in community life. In that sense, mainstreaming can counteract the disempowering or marginalizing effects of poverty on people. Mainstreaming can also refer to making programs less specialized so that they are available to the general public or to large segments of the public, such as everyone who is over 65. In that sense, mainstreaming can remove the stigma of needs tests and having to declare one's financial distress in order to qualify for some benefit. Within government, mainstreaming can also mean making a ministry like MCSS less a poor people's ministry, which speaks for a constituency with very little social or economic power, and more a ministry which meets the needs of all people.

However, mainstreaming can also mean that people who need specialized or intensified services to overcome special barriers find that they cannot get them in a service designed to serve everybody. The level of service becomes diluted to serve more people, and no longer targets those who need the most help. There is also a danger that mainstreaming can have the effect of counteracting affirmative action programs for racial minorities, immigrants, women, persons with disabilities and others by trying to treat everyone the same. It has been recognized that some groups need different, not equal, treatment to achieve equality. When mainstreaming is translated to mean uniformity, it can result in further marginalization of persons already on the sidelines.

Mainstreaming can be a positive trend. Poor people need to be brought into the mainstream of community life, and where possible, social assistance recipients should have access to programs which do not carry the welfare stigma. But mainstreaming must not be used to deprive recipients of special services and supports they may need to overcome barriers which have prevented them from making the contribution of which they are capable.

Medical and School Needs of Recipients

Mainstreaming could have a positive effect in the area of health care if social assistance were relieved of the financial responsibility for many medical requirements for recipients. A number of the items that would fall under special necessities should be covered by mainstream health programs. Ontario has a universal health care system; low-income people who need gastro-urinary supplies should not have to go to welfare to get them. These medical requirements should be covered by the Ministry of Health, but they have been left instead to be covered on a hit-and-miss basis by social assistance.

Prescription drugs are mainly covered by the mainstream Ontario Drug Benefit Program (ODB) which provides a drug card to seniors, regardless of income, as well as to people receiving social assistance. But the Ministry of Health is in the process of a cost restraint exercise, and more and more people are finding that the drug they need is not approved for coverage by the ODB. The hardship cases end up at the welfare office, asking for help to buy their prescription drugs.

In principle, we would like to say that all medical requirements for persons who have disabilities and others who receive social assistance should be provided by the Ministry of Health. Health care is its business. However, what would happen if social assistance stopped providing any of these health supplies? We suspect that even more people would suffer than are suffering now. They would fall between two jurisdictions and not get help from either. That, in a practical sense, is our bottom line: If people are experiencing hardship, and the only avenue of help that may be available is social assistance, then we want to ensure that those people do not suffer while different ministries or governments argue over which one should be responsible. Therefore, until appropriate ministerial responsibilities and priorities are sorted out, social assistance should protect people from hardship, where possible, by providing special necessities.

Education is another area where responsibilities are mixed up. Included in the market basket in Chapter 8 is provision for school needs, including things like locks for lockers and gym outfits and field trip money. The Ministry of Education should examine these items to see how the children of poor families can be protected from the stigma of not being able to afford what all the other children have, or the disadvantage of not being able to participate in activities that are part of the school curriculum, like field trips. Some teachers and some schools take it upon themselves to ensure that poor children do not miss out. Their efforts are admirable, but a more coordinated approach to the problem is needed.

To be fair, we also recognize that some school boards provide meals to poor children because the youngsters cannot concentrate on learning when they have not had enough to eat. Meal programs provide real benefits for children, and we would certainly not wish to see them terminated. With meal programs, schools are stepping in to deal with a consequence of the failure of other systems to address the problem of poverty among children.

Other Programs and Services in Social Assistance

Ironically, the federal withdrawal in 1990 from its commitments under the Canada Assistance Plan (CAP) may have created an opportunity for a review of how the Province funds a number of programs. As long as the federal government was paying 50 cents of every dollar Ontario spent on social assistance, the Province was better off financially to load as much spending as possible into social assistance. CAP cost-sharing was more favourable than other federal cost-sharing programs; it was also, until limits were imposed on CAP in 1990, open-ended. Now that CAP no longer provides 50 per cent cost-sharing, this may be the time to identify a more rational way of funding some services that should not be in social assistance at all.

The other imperative is that Ontario is planning to write new social assistance legislation. The existing legislation has been used as a catch-all for all sorts of things unrelated to income support for people in need. It is one thing to live with legislation carrying baggage accumulated over 25 or more years; it is quite another to draft a new Act and reinstate old references to unrelated services and programs. Anomalies in legislation must be removed and funding issues resolved so that new legislation is clearly aimed at a social assistance program of income support and opportunity planning.

In some cases, social assistance is funding or supplementing the funding of other programs to keep them going because these programs help poor people. We are not advocating that these programs and services be taken out of social assistance because they are unimportant. They are important. They are simply in the wrong piece of legislation. They must not be dropped into a legislative void once they are taken out of social assistance law. Changes to social assistance legislation must not be used as a way to deprive other valuable social programs of necessary funding. If direct social assistance funding is withdrawn from a program, it should be replaced with more appropriate funding.

There is some protection for service providers and the people they serve in the spending authority for social services under the Ministry of Community and Social Services Act. The Ministry Act is another catch-all for spending that does not fit under specific legislation or program areas. The grants for many counselling agencies and advocacy organizations which help social assistance recipients are paid out to local groups under the authority of the Ministry Act. This general funding authority for social services should remain, whether or not there is a new social assistance act.

The three major areas discussed below are: children's services, hostels or shelters and long-term care.

Children's Services

The Handicapped Children's Benefit (HCB) and payments to foster parents are in social assistance legislation. In *Back on Track*, we called on the government to take the HCB and payments to foster parents out of social assistance legislation and to transfer them to

appropriate children's legislation. This must happen before, or at the latest concurrently with, enactment of new social assistance legislation.

Hostels or Shelters

Many hostels and transition houses receive per diem payments from municipal GWA for their residents. In principle, these programs and services should have their own funding, separate from social assistance. Funding hostels is not a welfare issue. It is part of a wider social services network.

The issue of funding for unregulated residential facilities is contentious because some of these facilities depend on GWA per diems to survive. It is also confusing because there are so many different kinds of facilities.

There are emergency hostels for people in housing crisis, refugees and transients; transition houses for victims of violence, recovering alcoholics and drug abusers; and long-term care or domiciliary hostels, which provide permanent housing for those whose age or disabilities preclude independent living. There are different cost-sharing arrangements for different kinds of hostels or shelters: some are treated as health institutions and receive per diems from the Ministry of Health that are much higher than what other shelters get under GWA. There is also funding by MCSS under the Charitable Institutions Act.

Per diems for these facilities under GWA are a discretionary funding item for municipalities, and many of them cut back on this support in hard times. Even in good times, the per diems are subject to ceilings. This is an unsatisfactory and unreliable funding method for shelters for homeless people and abused women and children because it only pays for beds that are occupied and it does not cover the cost of services offered by the shelters. However, this GWA funding keeps many of these services financially afloat.

The Lightman Commission of Inquiry into Unregulated Residential Accommodation is looking into the state of domiciliary hostels, but not emergency hostels of any kind. There is also a provincial hostel review being undertaken. It is our view that in future, none of these facilities should be funded from social assistance. They should come under their own separate legislation and they should receive secure funding that allows them to provide services on an assured and ongoing basis.

However, we can see a role for social assistance in providing income support to people who may use their allowance to pay for residence in one of these facilities. This would take social assistance out of the business of paying per diems to facilities; recipients could pay for room and board out of their own allowances. Recipients should also receive a personal needs allowance, based on need. The monthly personal needs allowance could be pro-rated, for people who only stay in a hostel for a brief period. Our intention is to take social assistance away from funding institutions and restore it to its role of providing for the needs of individuals, and to give recipients of social assistance more control over their own lives.

Long-term Care Facilities

Another area of concern is long-term care facilities which are regulated by provincial legislation. There are approximately 9,000 recipients of social assistance in long-term care facilities. Most of them are persons with disabilities in facilities operated under the Homes for Retarded Persons Act; there are also some recipients in Nursing Homes, Charitable Institutions and Municipal Homes for the Aged. Regulations under FBA and GWA provide for assistance to residents of facilities to cover their co-payment residency cost and a personal needs allowance. FBA has a special institutional allowance which is higher than the regular rate, based on funding and charging policies in the residential institutions. The rate is paid directly to the facilities, not to the individual who is in need.

SARC made the point that the social assistance system should not have a special rate to coincide with institutional fee policies. *Transitions* said that people living in Homes for Retarded Persons should receive their regular allowance, and if their income from social assistance did not cover the daily co-payment for the institution, the difference should be made up through direct operating budgets, not welfare funds.

It made an exception for institutions for the aged, on the basis that there is only a small number of social assistance recipients in Homes for the Aged or Nursing Homes and it would not make sense to overhaul the institutional funding policies for these few people. The real issue here, for SARC and for us, is the need to move these non-aged residents out of facilities for the aged. It is unacceptable that relatively young disabled people live in these facilities. We are aware that MCSS is making efforts to ensure that this happens.

As a general rule, the social assistance allowance structure should not be geared to suit facility funding policies. People in facilities should not be put on a different allowance structure from people living in the community. We accept SARC's argument that there should not be a special institutional rate, with the exception of facilities for the aged. However, we are concerned that without a specific policy statement to the contrary, people without sufficient resources to cover the facility per diem fee will not have the same access to facility care as other Ontarians. This would be unfair and unacceptable.

The long-term care system is in the midst of a major redirection by the provincial government. The government's discussion paper on long-term care says that no one should be denied access to facility care on the basis of inability to pay. As part of that redirection, a distinction is being made between health care and residency. The co-payment is for room and board; there is to be no charge for health care in these facilities.

We believe, on principle, that the facility care system should assure access to facilities for people who cannot afford the co-payment. We would support a move by the government to cover through the facility care system the full costs of residency in facilities for people in need. If that happened, people in need who wanted to get into a facility would not have to apply for social assistance at all. It would eliminate an unnecessary and stigmatizing step in the process. However, short of that, people should use their social assistance allowance to pay

a facility co-payment, but if their allowance is not sufficient to cover the daily charge, the facility care system should make up the difference.

Social assistance should continue to provide personal needs allowances to persons living in long-term care and other facilities who are eligible on the basis of need. This small allowance is the only income some residents have for such personal necessities as renting a telephone, or buying small comforts like a pocket book or transportation for an occasional outing. It is a form of income support for these recipients. It is for their personal use only – not for facility use.

We asked in *Back on Track* that the personal needs allowance be increased from $100 a month to $135. It was increased to $112 a month. We reiterate that the personal needs allowance should be increased immediately to $135 a month. It should also be updated and reviewed regularly to ensure that it is adequate.

Direction 16:

- **In principle, social assistance legislation should provide for funding for income support and opportunity planning only. The government should review those areas in which social assistance now provides or supplements funding for other services and programs to determine how responsibility for funding can be transferred to appropriate legislation and mainstream programs.**

- **This exercise must not be used as a cost-cutting measure. If responsibility is transferred to another program, continued funding must be assured. The following should be transferred from social assistance to other legislation:**
  - **Handicapped Children's Benefit;**
  - **Foster Parent Program.**

- **Hostels for the homeless and shelters for victims of violence should have their own source of stable funding under new legislation which applies to residential facilities. They should not be funded directly by social assistance. Social assistance recipients, however, should be able to use their allowance to pay for room and board in such facilities.**

- **The government must ensure equitable access to regulated facility care for persons who do not have sufficient resources to pay the full co-payment charged by facilities. This could be done by funding the facilities to cover the full cost of residency for those unable to pay. Alternatively, the facility care system should cover any shortfall between a social assistance recipient's allowance and the residency co-payment.**

- **The social assistance allowance structure should not be geared to facility funding policies, with the exception of Homes for the Aged and Nursing Homes. Priority should be given through the redirection of long-term care services to moving non-aged persons out of facilities primarily for the aged.**

- **Social assistance should continue to provide personal needs allowances to persons who are living in long-term care and other residential facilities and who are eligible on the basis of need.**

- **The personal needs allowance should be increased from $112 to $135 immediately, and should be subject to annual updating and regular review.**

Who Should Pay for Social Assistance

Introduction

The way social assistance is funded has to change. The major funding issues must be resolved in a way that allows a new, more positive and productive system to take shape. If the debate over who pays for social assistance is not resolved soon, other efforts to improve the system will be placed in jeopardy.

> *"Individuals in receipt of social assistance cannot afford to wait while differing levels of government stake out their territory and fight a battle of words. Real reform and real change are needed now."*
>
> Ontario Municipal Social Services Association

The average taxpayer might say that funding is only about which government has a hand in his or her pocket. And it is quite true that when all the bills come in, the taxpayers pay, one way or another. But there is an issue of fairness when we discuss which level or levels of government should pay for social assistance. Is income security something that a national government should be concerned with or should it be left to the provinces? What about local property taxpayers – should they carry a heavier tax load because they live in a town where the major industry closes down and a lot of people need welfare? And what of consumers of social assistance – should one get fewer services and less support than another because they live in different places in Ontario which do not have the same ability to pay?

Social assistance in Ontario is now subject to cost-sharing by three levels of government: federal, provincial and municipal. The federal government has demonstrated its determination to off-load some of its funding responsibilities in this area. Municipal governments are adamant about the urgency of being relieved of their cost-sharing role. And for the past decade or more, successive provincial governments of all political stripes have avoided making the commitment to change.

The Federal Issue

One of the most serious threats to the fiscal integrity of the social assistance system in Ontario is the withdrawal of the federal government from its historic commitment to a joint and equal responsibility for social welfare programs across Canada under the Canada Assistance Plan (CAP). The Canada Assistance Plan Act was enacted in 1966 and CAP took effect in 1967. The legislation authorizes the federal government to reimburse provincial governments for up to 50 per cent of approved expenditures for social assistance and other social services, such as child welfare and child care, and the administration costs of those services. The federal contribution was essentially open-ended; for every dollar of approved provincial expenditures under CAP, Ottawa would reimburse the province 50 cents.

CAP consolidated earlier cost-sharing programs and significantly expanded the federal participation in social welfare across Canada. The preamble to the CAP Act sets out its objectives: to provide adequate assistance to persons in need; to prevent and remove the causes of poverty and to reduce dependence on public assistance. To be eligible for CAP funding, provinces must enter into agreements with the federal government and comply with CAP conditions. CAP requires a needs test to determine if an applicant for assistance is in need, or likely to be in need if such services are not provided. The needs test must take into account the person's budgetary requirements and the income and assets available. Any person meeting the test of need must be granted assistance. Provinces had to agree to institute an appeal mechanism in the system and to ensure that people would have access to welfare without an accompanying work requirement.

Almost 20 years after CAP's inception, the federal government commissioned a review of CAP as part of a wider review of federal spending. The study team report to the Task Force on Program Review, *Service to the Public: Canada Assistance Plan* said "CAP ... is considered indispensable to the development and provision of social services to the most disadvantaged Canadians." It concluded that "...CAP costs are not excessive considering what CAP is dealing with and accomplishing." It said affordability of the plan is a concern, but that CAP is not the cause of "economic malaise" in Canada; rather, it is alleviating the difficulties of those in need, but can do virtually nothing to prevent them. It suggested that "the one direction appearing to have merit" would be efforts to reduce social assistance caseloads.

If the cost of CAP becomes intolerable in future, the study team said, the federal government might limit its expenditures. "To the extent that this causes a failure to meet the needs of those on welfare, the burden would be shifted to provinces or simply ignored. Arbitrary action of this kind would have serious political implications but would be unavoidable at some indeterminate future time."

The Cap on CAP

The indeterminate time turned out to be only a matter of a few years away. As we noted earlier in this report, the federal government moved in 1990 to limit its expenditures under CAP for two years by placing a "cap" of five per cent on increases in spending in the three

wealthiest provinces: Ontario, Alberta and British Columbia. In the federal budget of 1991, the government extended the cap on CAP to 1995. The three provincial governments challenged the decision, but the Supreme Court of Canada ruled that Parliament was within its rights. The Court held that Parliament was free to alter the arrangement by amendment to the federal CAP legislation.

The cap on CAP will result in a reduction of the federal share of social assistance costs in Ontario from its traditional 50 per cent to 28 per cent in 1992-93. This limitation on federal cost-sharing has come at the worst possible time, when economic recession and restructuring – caused at least in part by other federal monetary and trade policies – have put hundreds of thousands of people out of work. Many of these people have had to apply for social assistance for help, raising the costs of the program substantially.

As a result of the cap on CAP and rising caseloads due to recession, the Ontario government has had to make up for a $1.6 billion shortfall in federal contributions for social assistance in 1991-92. At the same time, Ottawa has attacked the Ontario government for running up a large deficit.

National Income Security

The federal move is supposed to be temporary, but we are concerned that it will be extended again unless a new federal-provincial arrangement is adopted. There is a possibility that current Constitutional discussions could result in an agreement to recognize social programs in an amended Constitution. The Ontario government is pursuing this avenue through its proposals for a Social Charter.

We believe that the national government must be concerned with income security for people in need. The national government should be supporting, rather than undermining, maintenance of the Canadian social welfare system. There must be some kind of federal-provincial arrangement to sustain necessary social programs to help people in need across this country. We are less concerned about whether it involves a renewal of CAP or a new arrangement for taxing powers that will allow the provinces to maintain their services without a direct federal contribution or guarantees under a new Constitutional agreement – as long as there is assurance that the most disadvantaged Canadians are not abandoned.

Direction 17:

- **The funding of social assistance should be a shared responsibility of the federal and provincial governments. The two levels of government should reach an accord that assures ongoing support for social assistance programs across Canada.**

The Municipal Debate

At the centre of the debate over cost-sharing between the Province and local governments is the funding of social assistance. There have been several studies of provincial-municipal

cost-sharing conducted over more than a decade in Ontario, going back to the *Provincial-Municipal Grants Reform* report in 1979-80. None has led to a resolution of what is arguably the most controversial issue – whether municipalities should continue to pay a share of welfare costs.

The province requires municipalities to pay a 20 per cent share of most GWA allowances; the province and the federal government pay the rest. Municipalities, mainly at the level of Counties and Regions, deliver GWA throughout most of Ontario. They pay 50 per cent of approved administration costs, such as workers' salaries, and 100 per cent of non-approved administration costs, such as lease and telephone costs, for delivering GWA.

Municipalities also pay 20 per cent of the costs of Supplementary Aid and 50 per cent of Special Assistance, both of which are programs which provide for special needs for recipients of GWA and FBA and the working poor. There is no municipal contribution to FBA which is cost-shared by the Province and the federal government and delivered in most locations by the Province.

There has been no shortage of recommendations and analysis on the future of provincial-municipal cost-sharing for various provincial governments to consider. The most prominent and recent of the reports are the *Report of the Advisory Committee of the Minister of Municipal Affairs on the Provincial-Municipal Financial Relationship* (Hopcroft - 1991), the *Report of the Provincial-Municipal Social Services Review* (PMSSR - 1990) and *Transitions* (1988). All three recommended that senior levels of government – federal and provincial – assume 100 per cent of the funding of allowances and benefits of social assistance.

The Fiscal Arguments

The arguments to relieve local governments of their responsibility to cost-share are compelling. Municipalities do not have the fiscal capacity of senior levels of government to pay for welfare, and there are varying abilities to pay, from municipality to municipality, which lead to inconsistency and inequity in the delivery of services. Fiscal capacity and variability make the local property tax an inappropriate vehicle for funding social welfare programs which must be available, by law, to all persons who are eligible on the basis of need across the province.

The municipal sector has three major fiscal problems which do not apply to senior levels of government. First, municipal governments have limited revenue sources at their disposal; they do not have access to personal or corporate income taxes or retail sales tax. Their revenues come from the property tax base, user charges and grants from the provincial government. Second, they are not allowed by law to run an operating deficit; if welfare costs go over estimates during the municipal fiscal year, the additional dollars must come out of other expenditure programs.

And third, some municipalities have a much lower fiscal capacity or ability to pay than others. Municipalities with relatively wealthy assessment bases (on which the property tax is

calculated) which include a diverse mix of residential, commercial and industrial properties are better able to fund social services than others which are not so well off. This variation in ability to pay from municipality to municipality has a major impact on the availability of services which are within the authority of the local government to provide or not provide, such as Supplementary Aid and Special Assistance.

Ironically, municipalities which are hardest hit by economic recession – for example, a town where the major industry closes – are usually least able to raise the necessary revenues to pay for welfare and other services to help those in need. A program like social assistance, which must be provided to people in need, should not be subject to the relative strengths or weaknesses of the local property tax.

Impact on Municipal Budgets

The municipal financial contribution to the social assistance system is considerable, and it has grown significantly, particularly in the current recession. Between 1986 and 1989-90, municipal costs grew by about 47 per cent; by 1991-92, costs had risen another 106 per cent. In 1986, total costs of GWA for the municipal sector, including hostels and shelters, the work activity program and counselling, amounted to approximately $170 million, By 1991-92, that amount had escalated to an estimated $513 million – some 200 per cent higher. The municipal share would have grown even higher if the province had not stepped in 1991 to relieve municipal costs by some $25 million.

The reaction of many municipalities to such increases in their welfare budgets has been to slash spending in areas where they have authority to do so. Welfare allowances must be paid by law to persons who are eligible, but there are other ancillary services which are provided and cost-shared at the discretion of the municipality. These are the programs which are being targeted for cuts. Municipalities are in the midst of a systematic write-down of social programs because local governments cannot afford to continue to pay their share of basic welfare costs and still fund supplementary programs, without unacceptably high increases in property taxes for their ratepayers. Some programs are not just being reduced; they are being eliminated. The programs that are being wiped out may have provided a wheelchair for a disabled person to get around or transportation money for someone to look for work or repair of a leaky roof. They are not frills.

Other municipal programs unrelated to welfare are also being squeezed to ensure that there is enough money to cover the welfare budget. The result in some communities is that the social assistance system and recipients themselves are blamed for cutbacks in other municipal services, such as waste management or policing. It is not fair and it is not a healthy situation.

The Fiscal Dilemma

We understand the reluctance of any provincial government to tamper with cost-sharing formulas at a time like this, when the province is in the midst of a serious fiscal crunch and Ottawa has retrenched. But the situation is urgent. The current cost-sharing formula is

contributing to the unravelling of the system of supports and services for people in need in communities across Ontario. If this situation is allowed to continue, the system will become increasingly inequitable for recipients, who will be better or worse off depending on where they live in Ontario. And municipalities which soldier on, continuing to pay for supplementary services, will risk being flooded by people in need from have-not areas which provide none of those services.

We are also aware that there are two comprehensive reviews underway. The government has launched the Provincial-Local Relationship Reform project to sort out the whole range of complex provincial-municipal cost-sharing, across government. This project was established by the Minister of Municipal Affairs and involves provincial and municipal representatives. The Fair Tax Commission is also expected to examine property tax issues. We considered leaving resolution of the social assistance funding issue until after the "disentanglement" project has completed its work. We realize how important this exercise is to municipalities which have been arguing for some time that provincial and municipal roles and responsibilities should be sorted out and divided up so that local governments only pay for services over which they have substantial management control.

However, the disentanglement process is not expected to finish for two years. By that time, a good portion of the social support system in Ontario will not have been disentangled; it will have been dismantled.

We urge the Province to make a decision on cost-sharing of social assistance without further delay. Studies of this issue all recognize that it would not be fair to transfer substantial costs from the municipal sector to the province, without asking municipalities to take on some other financial responsibilities in other areas. There will have to be some tradeoffs if municipalities are relieved of the costs of social assistance; we are not in a position to recommend what they should be. But we believe that they must be worked out as soon as possible to prevent the system of supports and services at the local level from further disintegration. This is important enough to take precedence over waiting for a resolution of all the other disentanglement issues.

Settling the social assistance issue should be the base from which the disentanglement exercise proceeds: that is, if the province takes over welfare costs, what will municipalities fund as a *quid pro quo?* Resolving this cost-sharing issue now will also allow planning to begin in earnest for a new social assistance system.

We recommend that the province relieve municipalities of all costs of the welfare system, including administrative costs. Funding for administration has been an ongoing point of contention between the province and municipalities for years. The reports which studied the issue did not always agree on this point. The 1991 Hopcroft report called for the province to assume administration costs; the PMSSR was split on this issue; and *Transitions* proposed cost-sharing of administration, regardless of whether there was municipal delivery so as not to pose a disincentive to municipalities choosing to deliver the program.

This issue is complicated by the fact that we do not know what decision the province is going to make on options for delivery of a new consolidated social assistance program –

provincial, municipal, a mixture of both, or other delivery agencies. If the municipal sector is not involved at all in delivery, why should municipalities contribute to administration? If only some municipalities are involved, how could SARC's idea of an administration fee be implemented for those which opt not to deliver? How does that fit with disentanglement? What should happen with District Welfare Administration Boards (DWAB) which deliver GWA in some parts of the North – will they continue as they are now constituted?

Our conclusion is that, whatever the decision is about delivery, senior levels of government should pay 100 per cent of the costs. If the Province does not deliver the program directly, approved administration costs should be paid as part of a negotiated service contract with delivery agents. We would also like to see some provincial cost-sharing available for delivery agents which choose to continue the tradition of innovation at the local level by running pilot projects or services beyond what is required by their contracts with the Province.

One final note. While we understand the municipal frustration over these financial issues, we do have some concerns with the potential impact of financing changes on program delivery. We do not wish to see municipalities rid themselves of responsibility for all human services in their communities. It would be a waste of the potential of local governments to concentrate almost exclusively on roads and sewers. Some of the best innovations in social services over the years have come from local governments. That tradition should not be abandoned. It is in the interests of all citizens that local governments continue to be concerned with the overall well-being of their communities.

Direction 18:

- **The Province should resolve the issue of provincial-municipal cost-sharing of social assistance by making a decision now to relieve municipalities of their share of allowances, benefits and administration. A funding tradeoff with municipalities should be negotiated through the Provincial-Local Relationship Reform project for implementation in 1993.**

- **Under new funding arrangements for social assistance, there should still be provision for cost-sharing by the Province and delivery agents for innovative services and pilot projects at the local level beyond what is required under new legislation for standards of delivery.**

A Framework for Delivery

Introduction

To translate the vision of a new kind of social assistance system into day-to-day operations, there must be significant changes in the way the program is delivered. The values of the new system must be brought to the front lines of service, where consumers come into contact with workers. The system must change the way it goes about its business.

> *"The principle we would suggest would be the setting out of clear minimum standards that encourage uniform treatment with directions to go beyond those standards in particular circumstances. Death should be dealt to all those references to situations where the Director 'may' do something. The Director 'had better' would be more suitable."*
>
> *Ontario Coalition Against Poverty*

The first direction in this report calls for the creation in a single Act of a unified program for all recipients of social assistance, with a single-tier delivery structure. That sets the stage for a new approach to delivery. Not only must there be one deliverer of social assistance in any one location, rather than the current two, but the whole delivery system must operate on shared principles. Potential delivery agents of a new unified program must establish their capacity to deliver social assistance according to new, more stringent standards. These conditions should apply to whatever delivery agent provides the program in a community. There should be a legislated field mission which focuses on the role of delivery agents and staff. The Province must provide clear legislative direction, and actively enforce consistent standards across the system.

Taken as a whole, this new approach constitutes a delivery framework for the system. This framework puts heavy emphasis on accountability. The

authority and direction provided through the delivery framework is intended to ensure that new standards and practices are practised across Ontario.

A New Delivery Framework

Currently, the delivery system for social assistance is like a big machine with hundreds of different parts, some of which are working relatively well, and some of which are jammed or missing. There are different mechanics tinkering with various parts, using different manuals. The machine is based on a complex design that no one really understands anymore. Operating the machine is costly and cumbersome. It requires a complete overhaul.

The Province must exercise its overall responsibility for the system. Legislation must express principles to guide delivery and to affirm how people are to be treated in the new system. Greater consistency and accountability will come with conditions and standards set by the province for delivery agents. Legislation must ensure that the Province has the authority to ensure that standards and conditions for delivery are met.

Provincial Responsibility

The Province has ultimate responsibility for the whole social assistance system, but it does not exercise that responsibility very often. A 1988 report by the Provincial Auditor criticized MCSS for the inadequacy of its monitoring of municipal delivery. There is some confusion in the current system over how much authority the provincial government has to oversee the system. In legislation and in practice, the role and authority of the Province must be clearly affirmed.

Methods and effectiveness of delivery vary from community to community. In some large urban areas, there are hundreds of employees handling thousands of cases; in some small rural areas, GWA continues to be delivered by a part-time administrator on an occasional basis. In the municipal sector, there are major differences in the quality of delivery. Some municipalities are known as leading innovators in the field of social assistance and other community and social services, while other municipalities, sometimes for budget reasons, provide only a minimal level of services.

MCSS has decentralized its operations, giving considerable discretionary authority to its field offices. Certain standards have not been applied consistently to all FBA operations within the Ministry. After SARC released its report, MCSS formed the Income Maintenance Base Review Project Team to address some of the concerns raised about delivery. The review made recommendations on delivery functions, standards and mechanisms to improve effectiveness and efficiency. Some changes have been made to streamline delivery practices, and guidelines have been developed for program management in FBA offices.

If Ontario is to have a more accountable, consistent and equitable social assistance system, the provincial government must affirm and exercise its responsibility as the level of government accountable for the overall quality of the system, including how it is delivered.

The Province must monitor and evaluate the entire social assistance system and ensure that standards of delivery are enforced.

Direction 19:

- **The Province must exercise its responsibility as the level of government accountable for the overall quality of the system. The role and authority of the Province to monitor and enforce program and delivery standards should be clearly affirmed in legislation and in practice.**

Principles for Delivery

There are no principles to guide delivery of social assistance for the province as a whole. Some local or area offices have developed their own set of principles to help guide workers' relationship with applicants and recipients.

Earlier in this report, we discussed principles for the new system. These system principles or values will provide guidance for the kind of program that will be delivered and they will have an impact on delivery. In addition, however, we believe that there should be explicit principles for the delivery system. These delivery principles may sometimes conflict or at least compete; for example, consumer responsiveness may mean giving consumers more choice in how services are delivered and that may make the system somewhat more complicated. In specific instances, we have tried to pursue both responsiveness and simplicity, in balance and within practical limitations.

The delivery principles should be seen as a sub-set of the system values, and they should include the following: responsiveness to consumers, mutual responsibility, accessibility, social equity fairness, simplicity and openness, accountability and coordination. They are described briefly below. They would apply to any deliverer of a new unified social assistance program across Ontario.

Responsiveness to Consumers

Delivery must be responsive to the needs of applicants and recipients of service. People should be treated with respect and given every available opportunity to make their own choices about the services they need. In a system in which empowerment of people is an important value, delivery should reinforce the individual's ability to develop himself or herself.

Mutual Responsibility

Mutual responsibility requires that services must be delivered in a manner that respects the rights of individuals and recognizes the mutual obligations and shared responsibilities between persons in receipt of social assistance and the system. This principle must also recognize that there is not a balance between the system and recipients in terms of resources or power. This is not an equal relationship.

Accessibility

Delivery must make services accessible to persons who are in need. The system must ensure that all applicants and recipients understand their rights and responsibilities. Persons with disabilities, including people who are blind or deaf, must be able to use the system and understand it. The system must respect language rights: the French Language Services Act must apply to delivery of social assistance. In addition, the system must be capable of communicating with people who speak a language other than English or French, and people who cannot read. Accessibility also means that there is an office within a reasonable distance that is open to provide service. In some rural areas, availability of service is currently limited.

The way social assistance is delivered must take into account that Ontario has many different regions and cultures and that this diversity must be acknowledged. The system must be sensitive and responsive to the cultural and linguistic differences of applicants and recipients. Ways of doing so include ensuring the implementation of employment equity and anti-discrimination programs.

Social Equity

The principles of social equity must be coupled and integrated with the other principles for delivery. It will be of little value to many consumers if systemic discrimination continues to limit equality of outcome for them. Through training, staff hiring and ongoing monitoring the system must be given the tools with which to bring an end to institutional discrimination.

Fairness

The principle of fairness must be reflected in the delivery system, in the procedures that are followed and in the treatment of people. All persons must be treated in an equitable manner. The system must recognize and overcome systemic barriers facing recipients in society and the workforce.

Simplicity and Openness

The system should be as simple and understandable as possible. People who apply for or receive social assistance must have clear, complete and understandable information about access to services and about their rights and responsibilities. It is also essential that the people who administer and deliver the program be able to understand it, and receive the information and training they need.

Accountability

The system must be accountable to the public for the quality of delivery and the quality of services. There must be accountability from delivery agents around Ontario to those who are responsible for the system in the provincial government which has overall responsibility for the system and which must answer to the Legislature. There must also be an accountability mechanism to consumers through the Council of Consumers.

Coordination

Social assistance must be coordinated with other programs and services which are needed by recipients. Delivery must be well planned and monitored at the local and at the provincial level to provide quality assurance.

Direction 20:

- **Legislation should include principles to guide and inform the delivery system, including: responsiveness to consumers, mutual responsibility, accessibility, social equity, fairness, simplicity and openness, accountability and coordination.**

Conditions for Delivery

We believe that there must be certain conditions that delivery agents must meet and qualifications they must have to provide a quality delivery system. A framework is required within which delivery agents must deliver a consistently high-quality program. In our view, the issue of how a new unified social assistance program should be delivered takes precedence over who the delivery agent may be. As long as standards are specified and enforced, as long as conditions for delivery are sufficiently rigorous and roles and authority are clarified, who the delivery agent is should be of lesser importance than how the program is delivered.

Having said that, we must acknowledge that the issue of who will deliver a new unified program is a major concern for many people in the system. For consumers, concerns are often based on their experience with the current system, this is, whether they have had a better or worse experience with the provincial FBA office in their area or the municipal GWA office. For workers, a crucial issue is who their employer will be in future and how this will affect salaries, working conditions, union affiliations and other aspects of their jobs.

A number of reports have tackled the issue of who should deliver the program, including *Transitions* and the report of the *Provincial-Municipal Social Services Review*. SARC proposed what amounted to a mixed system; the Province should deliver where necessary to achieve program objectives; municipalities should have the option to deliver if they could comply with certain conditions set by the Province. The *PMSSR* recommended municipal delivery, based on a model service delivery contract negotiated by provincial and municipal representatives.

Arguments have been made on behalf of both municipal and provincial delivery. Municipal delivery is praised for its innovation, flexibility and closeness to the community, provincial delivery for its consistency and its capacity to deliver everywhere. There are points to be made on both sides.

It may also be that there could be different solutions for different parts of the province. There is not necessarily one answer to the question: Who should deliver? The current system of delivery in Northern Ontario, which includes District Welfare Administration Boards

(DWABs) delivering social assistance on behalf of municipalities within the district, is quite different from the municipal delivery system in Southern Ontario, which is mainly at the level of Counties and Regions.

We recognize that some people would like us to come down on the side of either provincial or municipal delivery. We have not done that. Who should deliver was not a question that was specifically asked of us in our mandate. The government has already received considerable advice on this subject, and yet another report on the pros and cons will not end the uncertainty. It is time for a decision. As with many other issues, there is no correct answer. Whether one favours provincial, municipal or mixed delivery often depends on one's experience or perceptions of the existing system. What the government must decide is which kinds of delivery agents would be most suitable to deliver a new unified program in various regions and communities across Ontario. One thing is clear: A decision must be reached as soon as possible so that the system can begin to prepare for the future.

We have not made it a condition of delivery that the agent must be a particular level of government. However, we do make it a condition that whoever the delivery agent is, it must not be a for-profit organization. We have not ruled out the use of community-based agencies to conduct opportunity planning. Governments do not necessarily have to do the delivery themselves; they may contract for some of the services. But there is clearly no room for the profit motive in a system which provides for people in need. We doubt that anyone would suggest privatizing social assistance – but we felt it necessary to put our views on the record for the future. In at least one other Canadian province, there was a proposal put forward to have financial institutions deliver social assistance cheques. It is not an initiative we would support. Social assistance must remain a public system.

SARC set out a series of conditions that municipalities should meet if they chose to be a delivery agent in a new unified system. Most of the conditions described below are adapted from those put forward in *Transitions* as the criteria for municipal delivery. We have made some changes to SARC's list and added to its criteria. One major change is that we do not limit these conditions to municipal delivery agents. If the provincial government decides to take over delivery directly, it will still be necessary to set the ground rules for how the program should be delivered at the local level. If the government chooses to have some municipal or other types of delivery agents across the province, it will be important to establish on what basis appropriate delivery agents should be selected.

The following conditions or qualifications for delivery are not necessarily all-inclusive. Like *Transitions*, we are seeking to ensure that certain conditions are met as a minimum. Most of the conditions listed below are based on those in the SARC report.

A Public System

The delivery agent for the new social assistance must be an arm of government or a not-for-profit organization. Social assistance must remain a public system.

Support for Objectives

It is essential that the delivery agent have an understanding of and support for the philosophy of the new social assistance system. Delivery agents which deliver the current system will have to take the necessary steps to transform their operations to meet all the new legislative and regulatory requirements. To do so effectively, they must be committed to the new approach.

Staff and Consumer Participation

Since one of the important features of the new system will be a new attitude to roles and responsibilities, the delivery agent will have to ensure that both staff and consumers are involved in planning, designing, monitoring and evaluating the new program to ensure that the spirit of the new system takes hold.

Annual Service Plan

Transitions proposed that municipalities opting to deliver the new program should have to submit an annual service plan, with measurable goals and objectives, for review by the province. The annual service plan would include objectives for opportunity planning, staffing levels, and program priorities for the year. The plan would allow the province to ensure that the program is being delivered as designed. We view the annual service plan as a useful planning and monitoring mechanism for any delivery agent, including an area or local office of MCSS.

Capabilities in Administration

Delivery agents must have the administrative capability to take on the challenge of administering a new system. They must be able to develop annual service plans, train and develop staff, implement new technologies and financial controls, plan and coordinate staff and services.

Service in French

The French Language Services Act guarantees the right to communicate in the French language and receive services in French from all provincial ministries in 22 areas designated in Ontario. Municipalities in designated areas are not obliged to offer services in French. However, municipal councils may choose to opt into the Act and, to their credit, a large number have done so.

A new approach to social assistance delivery offers an opportunity to improve access to social services in French. As a condition of delivering the program, municipal or any other potential delivery agent in the designated areas must agree to provide services in French. Delivery must be consistent with provisions and requirements of the French Language Services Act. Not only must there be sufficient staff to serve applicants and recipients in French, but applications, notices, letters and all other information must be available in French.

The Province should also cover the full costs of administration related to the delivery of services in the French language.

Liaison with Agencies and Communities

Coordination with other systems, agencies and organizations is vital for the success of the new system. Social assistance cannot exist in a vacuum; an important part of the function of opportunity planning will be to link recipients to programs and services they need in such areas as training, education and social supports and employment. It will also be important for social assistance to have ties to consumer and advocacy groups and community-based organizations that work with cultural minority groups and immigrants which can help to ensure that delivery is done in a culturally sensitive way. Many of these organizations already provide unpaid translation and support services to the system in order to assist their clients. The delivery agent must also consult and communicate with the general public in a dialogue about the new system.

Viable Administrative Unit

The province will have to decide what constitutes a viable administrative unit for a delivery agent.

In the existing system, FBA is delivered by the provincial Ministry of Community and Social Services (MCSS) through 13 area offices and 74 local offices located around the province, except for eight sites where municipalities have delivered FBA for sole-support parents since pilot projects were initiated in 1982. GWA is delivered by municipalities, by District Welfare Administration Boards (DWABs) in parts of Northern Ontario and by MCSS in other parts of the North where there is no municipal organization. First Nations communities also deliver GWA (First Nations issues are dealt with in a separate report).

Municipal delivery is generally at the level of Regions and Counties in Southern Ontario and through DWABs in the North. However, there are some cities in both Northern and Southern Ontario which deliver social assistance; there are also three Counties in Southern Ontario which have not consolidated for the purpose of social assistance delivery, and four Districts in the North where no DWAB has been formed. Where there is no municipal consolidation, GWA is delivered by small municipalities, such as towns and villages, some of which have only a few hundred residents.

The government has received advice on the viability of administrative units as it pertains to municipal delivery. A number of reports, including *Transitions* and *PMSSR*, have pointed to the difficulty of having administrative units that are too small to provide adequate full-time staff to deliver the program. Despite the recommendations in these reports, and despite some restructuring that has taken place among some municipalities, there are still areas of the province which continue to have social assistance delivered through small, part-time offices.

Where the municipal delivery option is chosen by the government, action must be taken to ensure that consolidation of municipal units becomes a condition of delivery. We strongly

support consolidation. Leaving delivery at the level of small towns and townships, where service is intermittent at best, is not acceptable. If another delivery option other than municipalities is chosen, the viability of the administrative unit must still be taken into account. Size can be a problem the other way too: Administrations that are too large can become like factories, processing people; this can be overcome through satellite offices and other forms of community outreach.

Direction 21:

- **Legislation should give authority to the Minister of Community and Social Services to establish conditions which must be met by a delivery agent. The Act should set out the conditions and the process whereby delivery agents must demonstrate their capacity to meet those conditions. Regulations should provide further details on the conditions and the process.**

- **Conditions for delivery should include, at a minimum, that a delivery agent for a new unified social assistance program must:**
  - **be an arm of government or a not-for-profit organization;**
  - **have an understanding of and support for the philosophy and objectives of the program;**
  - **ensure that both staff and consumers are involved in planning, designing, monitoring and evaluating the new program;**
  - **submit an annual service plan, with measurable goals and objectives, for review by the province;**
  - **demonstrate necessary capabilities in administration;**
  - **agree to provide services in French as a condition of delivering the program in areas designated under the French Language Services Act;**
  - **have the capacity to coordinate and liaise with other systems, agencies and organizations in the community;**
  - **constitute a viable, consolidated administrative unit capable of providing full-time, quality service.**

- **The Province should make a decision on options for who may deliver a new unified social assistance program as soon as possible so that the system can begin to plan for the future.**

Northern Ontario: District Welfare Administration Boards

The particular needs of Northern Ontario and the role of District Welfare Administration Boards (DWABs) represent a delivery issue that requires further consultation. Other reports,

such as *Transitions* and *PMSSR*, have referred to DWABs and the District Cities in the North, but there has been no detailed analysis of the issues, nor has there been a specific consultation to establish what options would best suit the needs of the North.

In most of the North, there is no upper-tier municipal structure, such as Counties and Regions, which are the primary deliverers of social assistance in the South. There are 10 Districts in the North, but there is no District level of government. DWABs operate under their own Act which allows for the consolidation of municipal provision of services on behalf of the municipalities in the District. Many of these municipalities have small populations and large geographic areas. DWAB membership consists of municipal elected officials, appointed by their local councils, and one or more provincial government appointees.

There are currently six DWABs in operation and four Districts which do not have boards. There are five District Cities that administer social services separately. Where there are no DWABs, the cities, towns and townships in the District do their own delivery. In some remote areas in the North, there is no municipal organization whatever. In these unorganized areas, MCSS usually delivers GWA.

There are several unresolved policy issues relating to DWABs, including the kind of enabling legislation required to allow for the creation of a vehicle to deliver social services in the North, and the composition, structure and financing of DWABs. These issues are discussed in a report prepared for the Delivery and Funding Project Team. Policy options were explored in this report, but the major conclusion, based on informal consultations with Northern administrators, is that there should be a formal consultation on delivery issues in the North, including the future of DWABs. We also heard during our public meetings about concerns over inconsistencies and inequities in delivery service as a result of unconsolidated delivery in Districts which do not have DWABs.

We have hesitated in other instances to call for further study. We want to see new legislation on the books as soon as possible. In this instance, however, we believe that Northern issues have not been given sufficient attention. We therefore call for a consultation, to be conducted as soon as possible, to explore future delivery options for Northern Ontario.

Direction 22:

- **A consultation should be conducted as soon as possible on options for delivery of social assistance in Northern Ontario, including the future of District Welfare Administration Boards.**

Native Persons in Urban, Rural and Remote Areas

There are significant numbers of Native people living in cities and towns, rural and remote areas across Ontario. We endeavoured to obtain the views of Native people who do not live in First Nations Communities by organizing informal meetings and hearing briefs. We did not go as far in this process as we would have liked. But we have learned from our discussions

with representatives of these native communities that the recognition of the following principles is crucial:

- Aboriginal rights extend beyond the First Nations boundaries;
- Aboriginal people want self-direction and self-determination;
- The time required to undertake consultation and initiatives must be set by Aboriginal people and their decisions respected.

Native people are willing to participate and become involved in a process of consultation. They have a strong desire to be recognized as having control and authority over their own services. They feel that the best arrangement is for Native people to serve Native people because they have both the knowledge and cultural sensitivity required. There must also be equality of services for this entire population.

We ask the provincial government to make a commitment to assist in meeting these identified needs. We further recognize that the Federal government has an obligation to meet their fiduciary trust relationship for Indians regardless of their geographic location. Aboriginal people living outside First Nations Communities believe there should be a consultation conducted at the grassroots level that would involve the community as a whole as well as their constituent organizations. There are different communities whose needs and individual views must be respected, understood and taken into account. Accordingly, the timeframe should be flexible enough to allow for a thorough consultation process.

Direction 23:

✦ **The future of social assistance for Native people who live outside First Nations Communities should be the subject of a community-based consultation process, directed by and for Native people.**

Service Contracts

The *PMSSR* report proposed that the provincial government and representatives of municipalities negotiate a model service contract that would provide the basis for agreements between MCSS and municipal delivery agents around the province. Whether or not a delivery agent is municipal, the concept of the service contract is a good one. The contract would be a legally binding agreement that establishes the obligations of both parties – the Province and a delivery agent – to ensure that the program is delivered according to certain standards. If a delivery agent were a Ministry field office, the accountability system would be of a different nature because MCSS would be overseeing its own employees in the field. However, the standards that the Ministry would have to meet must be as rigorous as those imposed on any other delivery agent.

A service contract would state a delivery agent's responsibility to adhere to specific standards, and the Ministry's obligation to support and monitor a delivery agent to ensure that the standards are indeed met. We emphasize that the contract should be a way to establish a

supportive partnership between the Province and delivery agents. The contract would include mutual obligations, including the responsibility of the Province to provide the necessary resources for the program, and to assist a delivery agent, where necessary, to meet all the conditions for delivery.

The idea of the model contract is that it would provide direction for separate contracts between MCSS and delivery agents around the province. It would cover the major issues and would eliminate the necessity of negotiating every aspect of every contract with every delivery agent. The process for development of a model contract would be a matter of policy. Elements that must be contained in every contract would be set out in regulations.

If the province opts for delivery by agents outside MCSS, we would hope that agents would have the option to sign service contracts of their own volition, rather than being forced to deliver by legislation. *Transitions* envisioned an optional system for municipalities.

Direction 24:

- **Legislation should give authority to the Minister of Community and Social Services to negotiate service contracts with delivery agents. A service contract would constitute an agreement that binds the parties and defines their mutual obligations concerning what is to be delivered, how it is to be delivered and the resources necessary to deliver it.**

- **Regulations would set out the elements that must be included in every contract, including, but not restricted to, specific standards for delivery.**

Field Mission Statement

There is no field mission statement in existing legislation. A field mission statement is different from a statement of purpose for the system. The field mission statement should reflect the overall purpose of the system, but focus specifically on the role of delivery agents and their workers. Some offices have developed their own statement of purpose and principles. As a result of the MCSS Base Review of the FBA program, program management guidelines have been developed and are posted in all FBA offices.

Based on the input from our consultations and focus groups we understand that there continues to be considerable differences in the approach to providing service on the part of different offices and different workers, depending on how the office or the workers see their role in the system. In some offices, for example, workers may be encouraged to provide consumers with as much information about services and entitlements and as much support as possible; in other offices, they may be encouraged to provide information only when asked specific questions and to keep the lid on spending. Workers may take it upon themselves to adopt different attitudes to service, or they may get contradictory messages from supervisors.

The lack of a province-wide field mission statement has been criticized for contributing to the lack of consistent delivery across Ontario. However, there is also heavy scepticism among

many staff about the usefulness of such a statement. The reason is that the typical mission statement is full of lofty intentions which are either not remotely achievable in the real world or so general as to be meaningless. If the social assistance system is to have a field mission statement, it must be one which finds some identification in the field. It must be meaningful. It must be idealistic, but it must be relevant to the realities of the job that must be performed. A field mission statement will be most effective if it is in legislation as an expression of the goals of field delivery. It will provide specific guidance to those who work in the system; it will set the tone for the kind of delivery system that is expected across the province; and it will provide information about the field mission to consumers and to the public at large.

Field Staff

Another major concern of staff is how roles will be fulfilled in the new system, particularly how the functions of income support and opportunity planning will be allocated among various staff in the new system. Many staff members expressed a concern that the role of the income support worker would be diminished or made subordinate to the opportunity planner. We said in Chapter 7 that opportunity planning should not be restricted to a particular person or job, but should be a process which requires the expertise and commitment of all staff.

We recommend that legislation refer to the generic title of delivery staff and that functions of the various positions of the field staff workers be set out in the regulations. Identifying workers by the generic term in the legislation will allow for maximum flexibility in defining staff roles. By defining staff roles in the regulation, however, there will be greater clarity than there is now. Under existing legislation, many staff functions are not even mentioned and therefore go unrecognized. Defining roles is also in the interest of recipients who want to know where to seek assistance for needs other than financial.

Direction 25:

- **Legislation should include a field mission statement to provide guidance to those who work in the system. Development of the statement should involve consumers and front-line workers.**

- **Legislation should refer to the generic title of delivery staff, and regulations should define the functions of the various field staff positions.**

Authority And Enforcement

We have said that the provincial government must exercise a more proactive and directive role in carrying out its responsibility for the quality of social assistance, including its delivery. An important issue is how the Province will do so. How will it ensure that standards of delivery are being followed? The Province must have the legislative authority to oversee the system. The necessary authority and duties must be given to someone in the system who must exercise overall responsibility.

Role of the Director

The Director of Income Maintenance in the Ministry of Community and Social Services has authority in existing legislation to supervise the system. However, the rather broad powers and duties which the Director has to inquire into how delivery is carried out and to ensure that the system operates according to certain rules are rarely used. Regulation changes and directives go out to the provincial and municipal offices across Ontario under the signature of the Director, but there is no systematic supervision, monitoring of compliance or enforcement.

The authority of the Director is different for FBA and GWA. There is no general supervisory provision under FBA, largely because the program is administered by the Ministry itself through its own employees. The Director is to perform such duties and exercise such powers under this Act as are conferred or imposed by this Act or regulation and any other duties that the government may prescribe. The Director is given numerous specific decision-making powers, such as determining the amount of the allowance. Many of these specific duties are delegated, and are to be carried out according to set policies and guidelines issued by the Director.

GWA is more specific in the powers it confers on the Director. GWA states explicitly that the Director shall exercise general supervision over the administration of this Act and the regulations and shall advise municipal welfare administrators and regional welfare administrators and others as to the manner in which their duties under this Act are to be performed.

The Director has a duty to enforce standards of delivery under GWA, even though this duty is generally discharged in a haphazard way throughout the province. The legislation allows the Province to take over the administration of welfare in a municipality. The Province may pay GWA to a person and recover the money from the municipality, or it may deduct the amount of the payment from amounts due to the municipality under any other Act. Municipalities must comply with certain reporting requirements to obtain reimbursement from the Province. The Minister may require information, inspections and accounts, and this power may be delegated to the Director. The Director may require specific information about the eligibility of particular recipients or applicants.

In addition to powers under GWA and FBA, the Director is delegated certain powers under the MCSS Act. The MCSS Act makes the Minister responsible for the administration of Acts assigned to the Minister; another section requires the Minister to secure the observance of all Ministry Acts and regulations; and the Minister has the authority to approve appointment of a municipal welfare administrator (the power to withdraw approval is not explicitly stated).

New social assistance legislation must clarify the role and authority of the Director. The authority of the Director should be reinforced in the new Act to ensure that the province has the authority to provide the supervision and enforcement necessary to ensure greater consistency and equity in service delivery across Ontario. Since the government has not

decided on delivery options for the new program, our proposed enhancements in the authority of the Director are meant to cover all eventualities, including different types of delivery agents in different locations around the province.

The Director should retain the authority and duties now vested in the office by legislation, with some clarifications. But the Director should also have additional authority, particularly in relation to signing, monitoring and enforcing service contracts with delivery agents, which will be a new feature of the system. The Director should have the authority to establish a delivery standards committee to assess all delivery agents, initially to see if they meet the conditions for delivery, and later to review performance on a regular basis.

A few of the duties we recommend that the Director have may require some explanation. One is the authority to approve the dismissal of a local social assistance administrator. The Director already has the authority to approve the appointment of local social assistance administrators. We add the authority for the Director to approve the dismissal of an administrator. This should only be exercised in exceptional circumstances. This is an effort to provide some additional protection to local administrators who could find themselves under pressure from their local employer to act in a way that could be a contravention of the legislation. If the administrator refused to follow orders, and was dismissed, the Province could refuse to approve the dismissal. We do not expect this to be a common occurrence; that is why we specify exceptional circumstances. There have been only very isolated cases in the past where administrators have had to refuse to obey orders from their municipal council, at risk to their job.

An area of concern in the current system involves local non-compliance with Social Assistance Review Board (SARB) decisions. Recipients who have won their cases before SARB are frustrated when some delivery agents ignore the decision. Therefore, we would make it a specific authority of the Director to ensure that the system complies with SARB decisions in a timely fashion.

Another issue pertains to referrals to the Divisional Court. Currently, contentious issues as to the meaning of social assistance legislation can only be resolved by the courts when an individual recipient's case is before them. We propose that the Director have the authority to refer contentious issues to the Divisional Court for a ruling. This option could be extended to SARB or other interested groups.

The recommendation below includes all the authority and duties now held by the Director, with some clarifications where necessary. It also significantly expands and strengthens the Director's role and authority.

Direction 26:

- **The Director of Income Maintenance should have the authority and duty in new legislation to:**
  - **ensure that the program is administered in accordance with provisions of the Act;**
  - **administer the Act in accordance with its goals and principles; and**
  - **advise delivery agents as to the manner in which their duties under the Act are to be performed.**

- **The Director should have the following specific authority and duties to:**
  - **require a delivery agent to administer social assistance in accordance with the provisions and principles of the Act and to follow the direction and guidelines of the Director;**
  - **require any information regarding the delivery of services by a delivery agent;**
  - **require specific information regarding the eligibility of particular recipients or applicants;**
  - **inspect the provision of services;**
  - **require audits;**
  - **order a delivery agent to refrain from any practice which is not in accordance with the Act;**
  - **substitute the Director's decision for that of the local delivery agent in exceptional cases;**
  - **pay benefits and recover the amount of such benefits plus the administrative costs and deduct the amount from any amount due to the delivery agent under any provincial Act;**
  - **establish a delivery standards committee to decide which prospective delivery agents will be qualified to administer assistance and to conduct reviews at regular intervals;**
  - **require a delivery agent to enter into agreements setting out the standards of performance for delivery of the program;**
  - **deduct or withhold funds due to a delivery agent under any provincial Act if the delivery agent has failed to observe its agreement;**
  - **require from the delivery agent an annual service plan and an annual report on the results of the previous year's services plan and any other reports deemed necessary by the Director regarding any matter relating to the administration of the program;**

- **cancel an agreement for delivery of services with a delivery agent, with provision for cancellation by either party with a year's notice;**
- **require reports from delivery agents prior to reimbursement of their expenses by the province;**
- **take over the delivery of social assistance from a delivery agent;**
- **approve the appointment of local social assistance administrators, with authority to revoke the approval (in exceptional circumstances) and to approve the dismissal of an administrator**
- **ensure compliance by delivery agents with decisions of the Social Assistance Review Board;**
- **refer a question of interpretation of any section in the legislation to the Divisional Court;**

✦ **The Act should also specify the duties of the delivery agent and social assistance administrator to:**

- **administer social assistance in accordance with the provisions, objectives and principles of the legislation; and**
- **follow the direction of the Director as to the manner in which the program is to be administered.**

Accountability within MCSS

If the provincial government continues to be involved in delivery, there may have to be some changes in its operational structure to accommodate the new authority of the Director. Currently, the people working in the field do not report to the Director of Income Maintenance. The Director sends out directives and guidelines to the field, but the Director is not responsible for hiring staff or evaluating performance. That is the responsibility of another division (Operations) in MCSS. Recent reorganizations within the Ministry do not change that situation.

The Advisory Group is not in a position to suggest how the Ministry should organize its operations. However, we are concerned that the Province be in a position to ensure that delivery agents – provincial, municipal or otherwise – comply with delivery standards in new legislation. The Minister has overall responsibility for the system at the political level. But there must be a clear centre of responsibility in the administration and in the law.

Legislation must specify that a Director be given responsibility for supervision of social assistance, as well as decision-making power. MCSS must be organized to comply with the Act in that regard. It must also be acknowledged that organization is not the entire solution. The Minister and senior executives in MCSS who have the responsibility for overseeing the system must use that authority and be accountable for its use.

It must be possible for duties of the Director to be delegated because no one person can do everything. However, the Director must retain overall responsibility. Under the MCSS Act, the powers and duties of the Minister, an officer or employee of the Ministry may be delegated to any other person or class of persons appointed by the Minister in writing. FBA allows for delegation by class of employees; GWA does not. The whole process of delegation is cumbersome and time-consuming. Currently, there are between 700 and 1,000 delegations annually signed by the Minister or Deputy Minister on an individual basis rather than by class of employee because of the numerous vague classifications. The authority to delegate by class of employee should be moved to new social assistance legislation, and classifications clarified in regulations.

As we have noted, the powers that the Director now has under GWA are quite considerable. The Director can take over a municipal welfare case and recover funds from the municipality afterwards; all sorts of reports can be required and inspections conducted. But these powers are only rarely used, despite the fact that there have been flagrant violations of existing legislation in some areas. All the authority in the world is useless in a practical sense if it is not exercised.

We looked for some way to ensure that the Director is held accountable for upholding and defending the Act in fact as well as in law. The Director can hold delivery agents accountable through the service delivery contract, but how is the Director held accountable? Theoretically, under existing law, a member of the public can take a Director of Income Maintenance to court to force him or her to enforce the Act, but this is not a very accessible option. Our conclusion is that consideration be given to an offence section of the Act to ensure compliance with the Act and with provisions of service delivery contracts.

We believe that the existence of an offence section would prevent situations where the Director is clearly in breach of the Act or turns a blind eye to flagrant abuses in the system. We realize that the Director has to answer to a chain of command in the Ministry. But we want to emphasize that the Director's primary responsibility must be to the Act which sets out his or her powers and duties. The possibility of a prosecution is an important signal to the system that the Director must be accountable for ensuring that the delivery system conforms to the Act across the province.

There should also be a requirement that the Director produce a public annual report on the state of the system and his or her activities. That report would include the response of the Director to requests and concerns of the Council of Consumers. This report should increase accountability of the system. It should not be a mountain of statistics, but a description of the workings of the system, its problems and successes.

Direction 27:

- **Social assistance legislation should vest a Director of Income Maintenance with responsibility for supervision of social assistance, as well as decision-making power. Authority to delegate duties should also be contained in the Act.**

- **To strengthen provincial accountability, consideration should be given to the inclusion of an offence section to ensure compliance with the Act and provisions set out in service contracts with delivery agents.**

- **The Director should be required to produce an annual public report on the state of the system.**

Consumer Involvement and Rights

Introduction

New legislation must ensure that the system recognizes and protects the rights of applicants and recipients to be treated fairly. For example, everyone must be entitled to receive written notice in a timely fashion when decisions are made which affect them. We heard from consumers that one of their priorities is information. For them, information about their rights and where and how they can get the services they need is essential. Information translates into empowerment. The rules of the new system should be clarified and communicated in such a way that people can understand what they mean.

> *"Consumers must be taken seriously throughout the system. Policy creation should be strongly tied to consumers as they know best how the system is flawed and what is needed ... Having a council of consumers will provide us with a safe, non-threatening avenue to bring our concerns to the Ministry."*
>
> Low Income Peoples Involvement of Nipissing

Because the two Acts governing the system were enacted several decades ago, they do not reflect current attitudes to the protection of individual rights. For example, consumers have a right to representation before SARB under the Statutory Powers Procedure Act, but nowhere in social assistance legislation is there reference to the right of a consumer to have an advocate. New legislation must affirm this right, along with a number of other protections for applicants and recipients. The appeal system for social assistance is described in the next chapter.

New legislation must also ensure that the recipients are actively involved in the development and ongoing operation of a new unified system through a Council of Consumers.

A Council of Consumers

Transitions recommended that a Council of Consumers be formed to monitor the system and provide ongoing, public advice to the government. In *Back on Track*, we strongly supported the formation of such a Council. We asked the Minister to make a commitment to establishing a Council and to conduct consultations on how it should be implemented.

The consultations were being conducted as this report was being completed. A series of local meetings were held across the province to ask consumers for their opinions and advice. Therefore, we are not making detailed recommendations on how the Council should be constituted or how it should operate. We believe that recipients themselves are the best people to answer questions about how the Council should be constituted, what its specific role should be and how its members should be chosen.

We support the principles that were proposed for discussion in the background paper provided for the meetings organized by and for consumers, in cooperation with anti-poverty community groups and provincial organizations. The paper said that this must be a consumer-driven, grass roots Council that should be representative of the regions of Ontario and of the social assistance population (for example, single parents, persons with disabilities, cultural and racial minorities, with representation as proportional as possible). The process of participation must remove as many barriers as possible and, to the greatest degree possible, consumers must decide who they want to represent them on the Council.

Throughout the Advisory Group's discussions, the role of the Council of Consumers came up time and again. In every aspect of the system, we can see a Council making a contribution. For example, we envisioned a role for the Council in developing a market basket and in the subsequent updating and review of the market basket. We believe the Council should review the information provided to applicants and recipients and the forms they have to complete to ensure that they are understandable and user-friendly.

We believe that the Council should report to the Minister, and respond to requests for advice from the Minister. This will require a commitment of resources to permit the province-wide outreach that will be necessary. It should also work with the Director of Income Maintenance, who has direct responsibility for the operation of the system. The Director must respond to questions and concerns of the Council. The Council of Consumers should prepare and make public an annual, public report on its activities and its evaluation of the system.

We do not list all the specific powers and responsibilities of the Council; those issues are the subject of consultations. In any event, we believe that the scope of the Council's influence and activities should be wide. Involving recipients in social assistance planning will provide a fresh insight into the system from people who experience it first-hand. The system will be stronger for it.

The Council should be formed as soon as possible so that it can be ready to participate in planning and implementation of a new social assistance system.

Direction 28:

- **A Council of Consumers must have a legislated mandate to provide advice to the Minister of Community and Social Services, to monitor the operation of the social assistance system, and make an annual public report on its activities.**

- **The Council must be involved in all aspects of planning and implementation of a new unified system.**

Rights of Recipients

The following are some of the basic rights of recipients that must be included in new legislation.

Right to an Advocate

The consumer should have the right to use an advocate, whether that person is a lawyer or someone involved in a community or self-help group, in dealing with the social assistance system. In 1991, in line with an action item in *Back on Track*, the Director of Income Maintenance issued a directive to delivery agents stating that recipients or applicants have the right to be accompanied by an advocate of their choice when dealing with the social assistance system. This right should be guaranteed in legislation. Having the right to an advocate is not intended to promote an adversarial relationship between consumers and workers, but to promote a better balance. A field worker has the resources and expertise of the system behind him or her, and it is important that the consumer should feel free to seek outside advice and support.

The right of someone appealing to the Social Assistance Review Board to be represented by a lawyer or agent is already protected in the Statutory Powers Procedure Act. However, social assistance legislation should cover all consumer dealings with the system, not just appeals to the board. It is also essential that consumers be advised of this right when they apply for social assistance.

Direction 29:

- **Legislation must guarantee the right of applicants and recipients to use an advocate in dealing with the social assistance system, and require that delivery agents inform all applicants and recipients of this right.**

Communication with Consumers: Written Notice

One of the major concerns heard from consumers is that they are not given enough information. They require easy-to-understand information about their own file, about how the system works and about their individual rights. Many of them live in fear of violating some

rule they do not know exists or being the victim of some arbitrary decision which will turn their lives upside-down. Knowledge is empowering; information must be shared to allow consumers to become more active participants in the system. The need for better information-sharing applies to all aspects of the system, but it is most important when it comes to advising people of their rights and obligations.

Both *Transitions* and *Back and Track* acknowledged the importance of ensuring that people receive clear written notice of decisions affecting them. Existing legislation is inconsistent. FBA requires written notice when an application for assistance is turned down or when assistance is suspended or cancelled. This notice must contain reasons for the taking of such action and information regarding the right to appeal. The GWA Act does not contain an explicit notice requirement for cancellation or denial of assistance, but there is an assumption that applicants and recipients will receive notice of decisions which affect them.

However, written notice has not always been provided in practice. As part of the government's response to *Back on Track,* the Director of Income Maintenance issued a directive to welfare administrators requiring written notice regarding ineligibility, suspension or cancellation of assistance. In addition, a working group of provincial and municipal staff has been organized to develop appropriate form letters to send to applicants.

New legislation should specify that notices must be clear, easy to understand and in writing. They must contain all relevant information about the reasons for the decision and the statutory authority under which the decision is made. In cases where the decision involves rejection of an application or the cancellation or suspension of assistance, there must be an explanation of the right to appeal, the right to be represented by an advocate, and an understandable explanation of the consequences of not acting (for example, your allowance will be terminated as of such-and-such a date). There should also be information provided regarding the availability of interim assistance during appeal. All notice forms should be reviewed by the Council of Consumers to ensure that they are easily understandable. The timing of written notices is also an important issue which is addressed separately.

Direction 30:

- **Applicants or recipients must be informed of any decisions which affect them by means of a written notice. Notices should be clear, easy to understand, and provide all relevant information, including reasons for the decision and the consequences of not responding.**

- **Where there are barriers to communication, written notice should be accompanied by other methods of ensuring the person is informed of his or her rights and obligations.**

- **All applicants and recipients must be informed of their right to appeal decisions affecting their allowance and benefits, their right to be represented by an advocate and the availability of interim assistance during appeal.**

Taking Applications and Determining Eligibility

The first encounter of an applicant with the system is the request to make an application. FBA states that an application must be received, but GWA is not as explicit. A regulation in GWA says that a welfare administrator may receive an application. There have been instances where people have been told there is no point in making an application because they clearly do not qualify for assistance. This practice may not be commonplace, but it raises an important issue of consumer rights. Someone who is not allowed to make an application may have difficulty appealing the refusal since there will be no record in writing that any application was made. Based on an action item in *Back on Track*, a memorandum from the Director of Income Maintenance has been sent to administrators of GWA affirming the right to make an application.

New legislation must clarify this issue by stating that an application must be taken. It is also important to specify that an application must be taken and eligibility determined as soon as possible. If the system delays dealing with an application for weeks, the applicant could be suffering real hardship in the interim. *Back on Track* said a decision on eligibility should be made within two days of taking an application for GWA. This was not implemented because of concerns that it was not workable, given the huge caseload growth in the current system and the inability of staff to cope with such a deadline under these conditions.

We acknowledge the difficulty in the existing system in meeting the proposed 48-hour standard . In the North, for example, the nearest welfare office may be a few hundred kilometres away, and some are open only once a week. Just getting documentation for applications may take days. Even in large urban centres, there has been such an increase in people applying for assistance that staff are hard-pressed to keep up. However, this is not the way the system always has to be. In a new system, the administration of the program should be streamlined, making it easier to respond more quickly to people in need. New legislation will also combine administration of both GWA and FBA, eliminating the current two-step process for many applicants who are eligible for FBA.

We propose that the difference in existing legislation about the taking of applications be resolved and that a delivery agent be required to determine eligibility forthwith. The obligation to respond forthwith, which adds an element of urgency, should apply to social assistance to meet basic needs. A determination of disability for purposes of receiving a disability supplement will likely take longer (see Chapter 6). The response to an application requires a written notice. We also propose that if an application has not been taken and eligibility determined forthwith, the application may be deemed to have been refused and therefore be subject to appeal to the Social Assistance Review Board (SARB). This will build some accountability into the system to respond with all necessary speed. If SARB becomes overrun with cases appealing the response time, it will, at the very least, indicate that there is a problem in the system.

It should be made clear that this requirement to take an application does not preclude providing emergency short-term assistance without completion of an application form under existing legislation. An immediate, short-term emergency benefit is discussed in Chapter 9 on

Special Needs. This benefit should cover circumstances where people need assistance right away, not a day or two later.

Direction 31:

- **The right of any individual to make an application for social assistance must be guaranteed in legislation. The Act should require delivery agents to take applications in all cases.**

- **Legislation should also specify that delivery agents must take an application, determine eligibility and provide written notice of a decision to applicants forthwith. Where a decision is not made forthwith, the application should be deemed to have been refused and be subject to appeal. It is understood that the determination of disability for receipt of a disability supplement will take longer than determining eligibility for assistance to meet basic needs.**

- **Legislation should retain the ability of a delivery agent to provide immediate short-term assistance in emergency cases, without completion of an application, at the discretion of the agent.**

Timing of Notice to Consumers

Having established the rule that recipients must be informed in writing of decisions affecting them, it is important to consider what kind of advance notice recipients should receive when the continuation of their allowance is at stake. We propose a 30-day warning notice except in cases of voluntary withdrawal telling recipients that their allowance is going to be suspended or terminated. This notice would include all the relevant information about appeal procedures and interim assistance. It would explain the consequences of not responding. Later in this report, we describe a new internal review process. During this 30-day period, the recipient might opt for an internal review to try to resolve the problem. If that does not work, there will be a 60-day period in which a person may launch an appeal to SARB.

We treat alterations in allowances differently for the reason that alterations are fairly routine. Requiring time-consuming notice periods to inform people of a minor change in their cheque would slow the system down and might work to the detriment of consumers. For example, a family may notify the office of the birth of a new baby, and the allowance would be increased to include the new family member, without waiting for formal notice of 30 days. Our major concern is that people be told what is happening to their allowance. Sometimes consumers are just as concerned about an increase in their cheque as a reduction; they are afraid to spend the extra money because it might be a mistake that will be deducted from their next cheque.

However, an alteration can involve a significant amount of money. A change of five dollars would not make a major impact in a monthly allowance; a change of $50 would.

Therefore, we propose that in the case of significant alterations, adequate notice should be provided. Notice that the allowance has been altered in a minor way should be included on the cheque stub. An explanation could be sent by separate mail or the notice could ask recipients to contact the office if they require further information.

Direction 32:

- **New legislation should require that written notice on suspension or cancellation of assistance be provided 30 days in advance of the action to cancel or suspend.**

- **In the case of alterations, recipients should receive adequate notice of significant changes in their allowance; notification of minor change should be attached to a recipient's cheque or sent by separate mail.**

Date of Eligibility

Current legislation is not consistent when it comes to establishing a date when an applicant becomes eligible to receive assistance. FBA says the Director may make the first payment begin at any date before or after the Director has determined eligibility. GWA contains no similar provision. In practice, FBA benefits are granted as of the first of the month following the month in which the application is taken; however, there is some retroactivity. Municipal practice for GWA is to start benefits as of the date of client contact with the office; sometimes shelter costs are backdated to the first of the month.

To set a particular date, such as the first of the month following the month of application or the first of the month prior to application being taken would be making the assumption that everyone comes to the social assistance office in the same state of need. Some people go for help when they see their finances running down (for example, unemployment insurance is about to be cut off) and they expect to be in need in a week or two. Other people arrive at the welfare office already owing a month's rent and utility costs. This is an instance where we believe that legislation should allow flexibility.

The criteria for the use of discretion by the delivery agent should be that the date of eligibility be in the best interests of the consumer. The choice should range from paying assistance as of the date of application, or the first day of the month in which eligibility is determined, or the first day of the next month, whichever is most appropriate for the applicant. There should be provision to grant assistance as of the first day of the month prior to the month of application in exceptional circumstances (for example, where the person is seriously in arrears in rent and in danger of immediate eviction) or where the making of the application was delayed because of circumstances beyond the applicant's control.

In most cases, it will benefit the client to have assistance begin as of the first of the month in which application is made. Most people have monthly bills to pay, and receiving a partial allocation of an allowance for the first month, if they applied mid-month, probably would not cover their actual expenses. In unusual circumstances, limited retroactivity would be allowed

to the previous month. Making the allowance payable as of the next month might benefit someone who is not technically eligible yet, but who is about to become eligible and would otherwise have to reapply the following month.

Direction 33:

- **Legislation should require that where eligibility has been determined, assistance will be paid as of:**
  - **the date of application or**
  - **the first day of the month in which eligibility is determined or**
  - **the first day of the next month, whichever is most appropriate for the applicant.**

- **There should be provision to grant assistance as of the first day of the month prior to the month of application in exceptional circumstances or where the making of the application was delayed because of circumstances beyond the applicant's control.**

Consumer Protection

Protection of Individual Privacy

People who apply for or receive assistance must be assured that their privacy will be protected by the system. One of the problems experienced by people who rely on social assistance is the social stigma attached to being on welfare. People who are in need should not be singled out in the community for public scrutiny.

The provincial Freedom of Information and Protection of Privacy Act (FIPPA) Act states that a head of an institution shall refuse to disclose personal information to any person other than the individual to whom the information relates, except for specified purposes. It assumes that it is an unjustified invasion of privacy to disclose personal information where the information relates to eligibility for social services or welfare benefits, describes an individual's finances or relates to a medical condition. The Municipal FIPPA contains substantially the same provisions.

There are concerns that the privacy Acts may not provide sufficient protection of confidentiality for people receiving social assistance. This matter is currently being tested in the courts in relation to a demand by Hastings County Council that members of council be given a list of the names of welfare recipients. An opinion from the Privacy Commissioner under MFIPPA has concluded that council has a need to know for the performance of its duties and disclosure is necessary and proper if council says so. The case has now gone to judicial review. MCSS is opposed to release of the names.

New legislation must provide a clear statement banning release of information about the identity and personal information of individual applicants or recipients, unless the person gives his or her consent in writing. This protection must apply not only while someone is receiving social assistance, but for as long as records are held. It is important to refer not only to a prohibition against disclosure, but also publication of personal information since FIPPA and MFIPPA do not apply to the private sector (the media). We realize that this may be seen as an infringement on freedom of the press under the Charter, but we believe it is justified to protect the privacy of applicants and recipients, primarily because of the unfortunate stigma experienced by those who receive social assistance.

The Hastings County Council case illustrates the need to strengthen privacy provisions in new legislation. Legislation must control who has access to this information by defining the need to know, that is, the purpose for obtaining the information. Reasons for needing to know would include eligibility determination and review, judicial and appeal procedures, and system audit. Municipal councillors who want to act as unofficial eligibility review officers by checking up on individual recipients would clearly not qualify as needing to know since that is not their role. Regulations should define classes of employees who would routinely have a need to know, such as field workers and supervisors.

Direction 34:

✦ **To protect individual privacy, new legislation should specify that:**

- **there shall be no disclosure or publication of names or personal information about an applicant or recipient without the written consent of the individual for as long as records are held;**
- **access to information about individual recipients must be on a need-to-know basis;**
- **criteria must be established in legislation allowing access for relevant purposes, such as eligibility determination and review, judicial and appeal procedures and system audit;**
- **regulations must define classes of employees who need to know this information on a routine basis.**

Protection against Creditors

New legislation should clear up the discrepancy between GWA and FBA. FBA provides that an allowance is not subject to attachment or seizure in satisfaction of any claim against the recipient; this has generally been interpreted to mean that a creditor cannot collect on a debt by asking the province to pay the recipient's allowance to him or her as repayment. There is no similar provision in GWA, but garnishment of welfare allowances has been interpreted in the courts to be against public policy.

This protection, however, is assumed not to extend to an allowance deposited by a recipient in an account with a bank, trust company or credit union. A recipient's other assets

may also be subject to seizure for debts. When a recipient is no longer on assistance, he or she may be pursued for debts like anyone else.

The province could provide more protection to cover recipients' allowances in their bank accounts against private creditors, but it probably does not have the constitutional power to shield recipients' money deposited with a financial institution when the creditor is the federal government in case of debts, for example, to Unemployment Insurance or Revenue Canada.

The rationale for the current protection of social assistance allowances from seizure while still in the hands of the delivery agent is to ensure that individuals who are in need will have adequate funds for food, clothing, shelter and other necessities. For the same reason, allowances should be protected to the extent possible once deposited in a recipient's bank account. This is particularly important if the system is going to encourage more recipients to receive their allowance by direct bank deposit.

Direction 35:

- **Social assistance allowances should be protected from seizure or garnishment by creditors before payment of the allowance by a delivery agent to a recipient. After payment, allowances should be protected to the extent possible from any type of seizure by creditors, including seizure from recipients' bank accounts because the allowance provides for the necessities of life.**

Trusteeship

The majority of social assistance recipients manage to handle their limited budgets and ensure that at least the bare necessities of life are provided. However, there will always be a few recipients who are unable to manage their funds to meet their most basic needs for food, clothing shelter and utilities. We are not referring here to people who intentionally plan to spend their money on a certain item and fall behind in their other bills or to people who make an error in judgment. We are referring to people who chronically mismanage their funds, leaving themselves and their dependants without the necessities of life. Both FBA and GWA provide for trusteeship of allowances, but there are few safeguards in the process and no standards for trustees.

Clear criteria should be set out in legislation describing the circumstances in which trusteeship is appropriate. Currently, a recipient is not able to challenge either the actual trusteeship decision or ask for removal or replacement of a particular trustee. These issues should be made appealable to SARB. The Director or social assistance administrator should monitor the need for a trustee. Trustees should keep financial records which should be available on request to the Director or administrator.

It is our view that recipients should have the right to handle their own money. In deciding whether trusteeship is necessary, the principle of least interference in the autonomy of the recipient should be followed. Some recipients may only need some training in money

management skills, and not require trusteeship at all. If a trusteeship order is made, a recipient should be given a portion of the allowance to spend on personal items in all but the most exceptional situations. As a recipient becomes able to handle financial affairs, he or she should have increasing authority over the allowance.

Direction 36:

- **Legislation should allow a trustee to be appointed to manage a recipient's allowance where there is an ongoing history of chronic mismanagement of social assistance funds which has resulted in the recipient being unable to provide him or herself or dependants with food, clothing, shelter and utilities.**

- **Prior to making an order for trusteeship, the Director or social assistance administrator must first determine whether the recipient would benefit from assistance in developing money management skills as an alternative to trusteeship.**

- **A person acting as a trustee must exercise a reasonable degree of care, diligence and skill in the provision of basic needs to the individual.**

- **Trustees should be required to keep financial records, to be made available to the Director or social assistance administrator on request.**

- **Trustees should encourage the recipient to participate to the extent that he or she is capable in the trustee's decisions.**

- **Barring exceptional circumstances, recipients should be given a portion of their allowance for personal needs. The trustee should allow the recipient to control other portions of the allowance as he or she becomes capable of doing so.**

- **A decision to impose trusteeship, to remove or replace a trustee, and the continuation of trusteeship must be made appealable to the Social Assistance Review Board.**

- **Trusteeship decisions must be reviewed on an annual basis.**

- **The preference of the recipient should be taken into account in choosing a trustee. Trustees must not have any real or apparent conflict of interest with the recipient.**

Direct Payment

Direct payment of social assistance allowances or pay direct is the payment of a portion of a recipient's allowance by a delivery agent directly to another party, such as a landlord or utility. FBA allows direct payment of rent in public housing. GWA generally permits direct payments. Direct payment may be used as a less intrusive alternative than trusteeship. Some recipients may prefer to have their rent and utilities paid directly, for example, but there must be safeguards in legislation to ensure that it is the choice of the recipient to opt for pay direct, not the landlord or utility company.

There is a danger that direct payments may become the rule, rather than the exception. Landlords may require direct payment before agreeing to rent accommodation to anyone in receipt of social assistance. We are concerned that recipients could be pressured into requesting direct payment if they are worried about getting a place to live. Therefore, there must be controls in legislation to protect recipients from being forced to allow direct payment as a condition of receiving services. If a recipient requests direct payment, the Director or social assistance administrator should take into account whether the person has had ongoing difficulty with finances in the past that would suggest the need for direct payment arrangements.

Direction 37:

- **Direct payment of a portion of a social assistance allowance for certain expenses such as rent or utilities should be done only with the consent of the social assistance recipient. Recipients should be free to cancel a request for direct payment. Where a recipient requests a direct payment arrangement, the Director or social assistance administrator must take into account whether the recipient has an ongoing history of difficulty in handling finances.**

- **Landlords, public housing authorities, utilities or other creditors must be prohibited from enforcing a requirement of direct payment of social assistance as a condition of providing service.**

Personal Information

There must be consistency in terms of the information requested from applicants and there must be limits on what information applicants can be required to provide. Regulations should prescribe the information that can be required from an applicant or recipient. There should also be standardized forms so that all delivery agents are asking the same questions in the same way. Forms should not be regulated to allow for amendments and adaptations to new technological requirements. Part of the role of the Council of Consumers should be to review forms periodically to ensure that they are understandable and appropriate.

There is also a need to standardize the sharing of information on recipients between levels of governments in order to determine or verify eligibility. GWA regulations allow this

exchange of information and FBA is silent on this issue. Applicants must be informed of why information is necessary to determine or verify eligibility before being asked to sign a standard consent form.

Recipients who wish access to their own personal files from social assistance should be guaranteed access through the Freedom of Information Act. On appeal, there should be full disclosure by the Delivery Agent of the recipient's file.

Direction 38:

- **Regulations should prescribe the information that can be required from applicants or recipients. Forms should continue to be standardized so that all delivery agents ask the same questions in the same way.**

- **Applicants must be informed of the reasons why certain information is necessary to confirm or verify eligibility and should have full access to their file.**

The Appeal System

Introduction

New social assistance legislation must guarantee just and fair treatment of all persons. People who use the system must be aware of their rights and responsibilities, and the system must follow legal due process. One of the major safeguards built into the current system is the Social Assistance Review Board (SARB) which hears appeals.

> *"When benefits had been denied to them, none of the applicants had been told the decision could be appealed. It was not surprising then that only one of the applicants had direct experience with appeals."*
>
> Centre for Spanish Speaking People, Toronto

The Advisory Group has examined the powers and practices of SARB and considered how new legislation should handle the many issues involved in having an appeal body for social assistance. Clearly, there must continue to be a body which hears appeals so that consumers have some recourse when they feel they have not been treated fairly. In looking at how SARB operates today, we found that there are some major concerns related to limitations on grounds for appeal, delays in the appeal system and enforcement of decisions. In each of these major areas, we have proposed changes to the status quo. We have endeavoured to ensure that people who go to appeal are assured of a just and speedy judgment and that they do not suffer hardship in the interim.

We also set out conditions for an internal review process to be available across Ontario to deal with cases which may be resolvable at the local level, without resort to appeal to SARB. Going through an internal appeal locally must not preclude or prejudice a subsequent appeal at SARB.

Internal Review

There should be an internal mechanism available at the local level for reviewing decisions to reject applications or suspend or cancel benefits before

such matters proceed to appeal at the Social Assistance Review Board. This internal review should be less formal and less time-consuming than a SARB appeal. It should serve to eliminate some cases going to the Board which could have been solved if the parties had been brought together in the presence of a third party to work any misunderstandings out. Sometimes, cases go to SARB because of a missed communication or a simple error which could have been cleared up earlier without SARB intervention.

There is provision in current legislation to have internal reviews, and they are already part of normal practice in some municipalities. An advocate may call a supervisor on behalf of a client to challenge a worker's decision. The case can often be overturned on the spot if, for example, the worker was unaware of a change in regulation. However, internal reviews are not available everywhere, and there are no consistent policies to guide how they are conducted. *Transitions* proposed an informal internal review process, and *Back on Track* urged the government to implement one. In October, 1991, as part of the government's response to *Back on Track*, a directive was sent out by MCSS asking all delivery agents to establish internal mechanisms to ensure local review of decisions.

New legislation should require all delivery agents to have an internal review mechanism available for use of applicants and recipients. Some flexibility should be allowed in how it would be established. Some delivery agents might have one person, like an ombudsperson, who would do all the internal reviews. The person who conducts the review should be someone who was not involved in the original decision, where that is practical. In large jurisdictions, it should be standard practice that the person who conducts the review was not party to the decision. However, we recognize that in some smaller offices, particularly in the North, it may be difficult to use a third party because there may only be one supervisor in the office.

Concerns remain about the possible prejudicial effects of an internal review system. The integrity of such a review system will be quickly undermined if it is used as a fishing expedition against consumers. Internal review should be used as method or a path to speedy resolution of cases but must remain the choice of the applicant or recipient. The system should be prevented from using evidence prejudicial to consumers' cases against them should they go to SARB.

In addition, an applicant or recipient must have the right to be represented by an advocate at the internal review. Legislation must state that the results of an internal review will not prejudice any subsequent appeal at SARB. There must be full disclosure by the delivery agent of the file on the case. Time limits for taking an appeal to SARB must automatically be extended if the applicant or recipient opts for internal review. In cases where there is a decision to suspend or cancel benefits, benefits must continue, pending resolution of the internal review.

We have already prescribed protections for the recipient by requiring notice of termination or suspension of benefits. We have said that people must be informed of the right to use an advocate and to appeal a decision to SARB. The notice must also provide information on the right to request an internal review. The internal review should take place within a few days –

well within the 30-day notice period for a cancellation or suspension of benefits. Thereafter, a recipient making an appeal to SARB may apply for interim assistance, which is discussed in the next section on SARB.

Direction 39:

- **Legislation should require every delivery agent to establish an internal review process to respond to requests from an applicant or recipient for review of a decision. All applicants or recipients must be informed of their right to an internal review in addition to their right to appeal to the Social Assistance Review Board.**

- **The following conditions must apply to the internal review process:**

  - **Internal review is an option of the applicant or recipient. The individual may choose to waive the right to an internal review and go directly to SARB.**
  - **Written notice must specify the proposed action, the reasons for it, and the right to internal review and appeal to SARB.**
  - **The applicant or recipient must be informed of the right to be represented by an advocate and the right to receive full disclosure of evidence relied upon in making the decision.**
  - **Participation in internal review must be without prejudice to any subsequent hearing at SARB.**
  - **The internal review must be conducted within the 30-day notice period allowed for warning of a suspension or cancellation. Time limits for taking an appeal to SARB must automatically be extended if the applicant or recipient opts for internal review.**
  - **Wherever possible, the internal review must be done by a supervisor who is not directly involved in the case. It is recognized that this may not be possible in smaller offices where there is only one supervisor.**
  - **In cases where notice is made of an intention to suspend or cancel benefits, the recipient must continue to receive benefits, pending resolution of the internal review. If the recipient proceeds to a SARB appeal, provisions for interim assistance will apply.**

The Social Assistance Review Board

In considering new legislation, we had to determine what kind of appeal process the system should have. In the interests of fundamental justice, the system must have a separate body to adjudicate appeals when people believe that they have been dealt with unfairly. Having an appeal mechanism is essential to protect the rights of recipients and applicants and the

integrity of the system. We considered what changes should be made to the current appeal mechanism.

SARB in New Legislation

Currently, the establishment of SARB is not in either the General Assistance or Family Benefits Acts. The Social Assistance Review Board derives its powers from the Ministry of Community and Social Services (MCSS) Act, and operates subject to the Statutory Powers Procedure Act (SPPA), which deals with procedures for all provincial administrative tribunals. The MCSS Act contains provisions regarding members of the board, their remuneration and term of office and the conduct of hearings. Regulations under the Act specify time for reaching a decision and notice of hearings. The SPPA covers such matters as role of advocates at hearings and admissibility of evidence.

The establishment of SARB should be in social assistance legislation, rather than in the MCSS Act, to make information about the appeal process more accessible and understandable to those who do not have legal training. The avenue of appeal is an essential component of the package of rights to be included in new social assistance legislation. However, the administrative provisions in the SPPA should continue to cover SARB procedures, as they do all other provincial administrative tribunals.

Decision-making Powers of SARB

With its current authority, SARB may interpret parts of the current legislation which apply to a case it is considering. SARB cannot make someone eligible for assistance if the person is ineligible according to legislation. Where there is a choice of interpretations, SARB has the duty to see that the legislation is applied in a way which will respect the Charter of Rights and Freedoms. However, it is unclear whether SARB has the power to strike down part of the legislation.

At the outset of our examination of the appeals system, we considered whether SARB should have the power that the courts and some tribunals have to strike down provisions of legislation which are found to be inconsistent with the Charter. Our conclusion was no. SARB is mainly a lay Board; there are some Board members who have legal training, but many do not. There are advantages to having a lay board, including making the appeal process somewhat less intimidating for those who are not used to the legal system. In addition, it is expected that SARB will have enough work to do, interpreting the meaning of a new piece of legislation, without adding to its authority. When the new social assistance Act becomes law, those who wish to challenge the legislation may do so through the courts.

Nature of the SARB Hearing

There is also a question as to what the nature of the SARB hearing should be: Should the Board confine itself to a review of the issues and materials that were before the administrator or Director at the time of the original decision, or should the Board hear new evidence? The

Divisional Court has stated that SARB has a duty to hold a new hearing on the issue before it and not simply to act as a forum for an appeal or review of the original decision.

From the consumer's perspective, there is a desire to get a final decision from the appeal process. This argues in favour of having the Board hear any new evidence that may have come up since the original decision was made. Confining the Board to the evidence that was available at the time of the decision may clarify whether the administrator or Director made the right decision in the first place, but it may not help to settle the case if new evidence has been brought to light or events have intervened which would change that decision.

A concern about having the Board hear new evidence is that the case may require new calculations that should be made by the delivery agent. However, in those cases, the Board could render its decision on eligibility, based on the current situation, and refer any administrative matters back to the delivery agent. The Board might also comment, if it chose, on the original decision as to whether it was correct or not, based on the evidence available at the time.

The authority to refer a case back to the field is already in legislation. In the Family Benefits Act, the Board has the power to: confirm a decision or rescind it; direct the Director of Income Maintenance to make any other decision that can be made under the legislation; substitute the opinion of the Board for that of the Director; or refer the matter back to the Director with directions which the Director is required to follow. These provisions also apply to appeals of GWA decisions. New legislation should give the board the authority to affirm, rescind or vary a decision of the delivery agent, substitute its own decision for that of the delivery agent, refer the matter back to the Director for decision or make any other decision the Director could make at the date of the hearing.

The onus for establishing evidence before SARB should rest with the appellant in cases were an applicant for social assistance is attempting to establish eligibility. After that, once a person is in receipt of social assistance, the onus should shift to the system to establish why the person should no longer be eligible.

Direction 40:

- **New social assistance legislation should establish the Social Assistance Review Board (SARB), replacing references to SARB now contained in the Ministry of Community and Social Services Act. SARB should continue to be governed by administrative provisions of the Statutory Powers Procedure Act.**

- **SARB should retain the power to interpret social assistance legislation. Any challenges attempting to invalidate the law should be made to the Divisional Court.**

- **New legislation should give SARB the authority to conduct a new hearing on the evidence up to the time of the hearing, rather than confining it to reviewing evidence available at the time of the original decision.**

- **SARB should also be given the authority to affirm, rescind or vary a decision of the delivery agent, substitute its own decision for that of the delivery agent, refer the matter back to the Director for decision or make any other decision the Director could make at the date of the hearing.**

- **In appeals on refusal of eligibility, the onus should be on the appellant to establish eligibility. Once a person is granted eligibility, the onus should shift to the system to prove why the recipient is no longer eligible. There must be full disclosure of all relevant documents to the appellant and his or her advocate.**

Grounds for Appeal

A major issue for new legislation is whether the grounds for appeal to SARB should be expanded. Currently, refusal, suspension, cancellation and variation in allowances may be appealed. A considerable number of decisions that affect eligibility or the amount of benefits either are not subject to appeal, or are subject to limited or unclear appeal rights. Under existing legislation, these include: discretionary or optional items under Special Assistance and Supplementary Aid; the effective date of an allowance, including backdating; the failure to make a decision within a reasonable time; held cheques; decisions to pay an allowance directly to a third party; trusteeship of allowances; replacement of lost or stolen cheques; and overpayments.

There are also limitations on who may appeal. Only recipients are permitted to appeal. Beneficiaries, such as spouses and children, cannot appeal, nor can former recipients. For example, a person who has not appealed the recovery of an overpayment while receiving social assistance cannot decide to appeal once he or she leaves the system.

Decisions relating to allowances and benefits paid to people receiving social assistance have a major impact on those people's lives. Decisions which may involve small amounts of money can create financial hardship for people who are already having trouble making ends meet from one cheque to the next. It is important that recipients have recourse to an appeal. Grounds for appeal to SARB should be expanded under new legislation to include all decisions which affect eligibility for an allowance or benefit, the amount of allowance, and the manner in which it is paid.

This would mean that many decisions which are now not appealable or subject to only limited appeal would become fully appealable. But it must be kept in mind that new legislation will create a new system. Legislation will be more specific than it is now as to the obligations of the system to provide certain benefits and services and to deliver them according to certain standards. These changes will not eliminate the need for appeals, but they will create new and clearer ground rules for the system.

For example, there should no longer be Supplementary Aid and Special Assistance, two separate programs which provide special items, mainly at the option of the delivery agent. There will continue to be some Special Needs items which are left to the discretion of the delivery agent, but we have recommended that most of the items and services which are now optional under Supplementary Aid and Special Assistance be made mandatory through Special Necessities or Emergency Assistance.

It should be clarified that SARB will not have the authority to overrule a delivery agent's exercise of discretion with respect to special needs items, so long as it is exercised according to law. This would mean that the appeal could concern whether appropriate criteria had been used in the making of the decision, and if this were so, the board would not interfere with the decision.

We propose that the right to appeal should be given to spouses of applicants or recipients. They are often directly affected by the issuance or amount of a social assistance cheque or provision of a special needs item. We also include former recipients in cases regarding overpayments and former recipients who had begun an appeal while on assistance.

Direction 41:

- **New legislation should expand the grounds for appeal to SARB to include all social assistance decisions which affect eligibility for an allowance or benefit, the amount of allowance, and the manner in which it is paid.**

- **In addition to the existing grounds for appeal on refusals, suspensions, cancellations and variations in allowances, grounds for appeal should be extended to the following:**

  - **effective date of an allowance;**
  - **failure to make a decision within a reasonable time which may be deemed to be equivalent to a refusal;**
  - **holding a cheque past the due date;**
  - **direct payment of allowances;**
  - **issues concerning trusteeship, including the imposition of trusteeship, the removal, replacement or choice of trustee and refusal to terminate a trusteeship;**
  - **issues regarding overpayments, such as the existence and amount of an overpayment, the rate of collection, and forgiveness of all or part of the overpayment if that is within the authority of the Director or administrator;**
  - **adequacy of an opportunity plan;**
  - **special needs items, whether mandatory or discretionary – Appeals on discretionary items may deal with whether the Director or social assistance administrator has used appropriate criteria in the making of**

the decision. If this is the case, the Board would not have the power to interfere with the decision.

- **The right of appeal should be given to: recipients, applicants, their spouses, former recipients in cases regarding overpayments and former recipients who have commenced their appeal while still receiving assistance.**

Interim Assistance

Interim assistance is the payment of benefits to people making an appeal until a decision is reached on their appeal. The purpose of having interim assistance is to ensure that people can afford to pursue an appeal. Current legislation says interim assistance may be provided, that a decision on payment must be made before the hearing, and that the person must show financial hardship to qualify. Interim assistance does not have to be paid back if the person loses the appeal. SARB has developed guidelines for the level of payments for interim assistance.

People who may need interim assistance include applicants for social assistance who are told they are ineligible, and people already receiving assistance whose benefits are cancelled or reduced. In all cases, SARB should make a preliminary assessment to determine if the person is in need of interim assistance and if they have an arguable case for appeal. These practical conditions should ensure that only those who are in need receive interim assistance and that frivolous appeals are discouraged.

Interim assistance should also be available in appeals regarding items of special need. There is no interim assistance for these items now because the granting of special needs is not appealable in the current system. We realize that granting interim assistance for items of special need is controversial because paying for the item may settle the case in advance of the hearing. For example, if the person has been denied a request for a new refrigerator, the item is a one-time payment. In making a preliminary assessment of need, SARB will be able to ascertain whether the item is something that can wait or is an emergency – for example, the family will not be able to store any perishable food for two months pending the appeal. SARB will have the authority to order interim assistance in cases where it deems such assistance to be necessary to meet need.

Interim assistance should also be available to persons in need pending court appeals. At the present time, in cases where an appellant has won the case before SARB, the Board's decision is stayed pending an appeal to the Divisional Court. This means that the SARB decision cannot be implemented. Therefore, SARB should be able to provide interim assistance if it finds the person to be in need.

Another issue affecting access to the appeal system is the ability of SARB to pay expenses of the person making the appeal. SARB should have a fund from which it can reimburse people for costs to the individual such as travel and child care expenses. Legal costs are generally not at issue because many people appealing to SARB have access to legal aid. Reimbursement of lost income will be a more important issue as more recipients also work at

least part time. The cost of medical reports has also been raised as a problem for many persons with disabilities who appeal to SARB.

Direction 42:

- **Legislation must specify that SARB will provide interim assistance on the basis of a preliminary assessment of the case to determine if the person is in need of interim assistance and if there is an arguable case for appeal. SARB should have the power to order interim assistance to clients who are appealing to the courts, where it deems such assistance is necessary to meet need.**

- **SARB should have the authority to pay individual expenses, such as travel and child care costs, to individuals making appeals to the Board. SARB should also be able to reimburse an appellant for lost wages and the cost of medical reports.**

Time Limit for SARB Decisions

In the current system, delays in disposition of appeals to SARB are substantial. The timing of decisions is an issue for consumers and delivery agents who are anxious to have disputed cases decided. It is also an issue for SARB because of the demands on the time of board members and staff to keep up with the volume of cases. The MCSS Act stipulates that decisions are to be reached within 40 days of sending the notice of the time, place and purpose of the hearing. The courts have interpreted this to mean that SARB must reach a decision in that time frame, but it does not have to send out the decision to the parties in that period. Many people who go before SARB do not hear the results of their case for several months. This is a particular hardship for people who are not awarded interim assistance.

Statistics from SARB indicate that between September 1990 and August 1991, approximately 42 per cent of cases took longer than three months to be delivered; almost 15 per cent took longer than five months. However, these statistics indicate only the time period between notice of hearing and a written decision; they do not indicate how long the appellant may have waited before a hearing at SARB was scheduled. *Transitions* proposed that decisions be issued within 15 days of the completion of the hearing, with extensions permitted in exceptional cases. However, the statistics indicate that only a minority of the board's decisions were actually delivered within two months in the period studied in 1990-91.

There will always be appeals in any system. But the current backlog of appeals at SARB is a symptom of a social assistance system that is no longer working effectively. A system which is riddled with inequities and inconsistencies must inevitably result in many disputes as people attempt to get what they think is fair. When new legislation is enacted, there will be an adjustment period which will probably generate a number of appeals to SARB. But over the longer term, we hope that the appeal mechanism will be under less pressure, if we succeed in legislating a system which is fairer and simpler – without, for example, all the current

categories of eligibility. The internal review process should also serve to take some pressure off SARB by settling cases which do not require formal adjudication.

There must be a reasonable limit on the time it can take to have an appeal decided. The 15-day time period recommended in *Transitions* does not seem feasible, but we have determined that it is reasonable to require that a decision should be delivered within 60 days of the date of the SARB hearing. This should allow sufficient time to produce well-reasoned decisions, while reducing the current time frames for people to hear the results of their appeal.

Appeal Periods

Applicants and recipients now have 30 days in which to file an appeal to SARB. There are many applications for an extension of that time. A more realistic time period would be 60 days. This also contributes to greater simplicity in the appeals system since we have also recommended a 60-day time limit for the Board to deliver its decisions. In addition, there are a number of possible stages in the appeal process, including application for a reconsideration hearing at SARB or an appeal of a SARB decision to the Divisional Court. We suggest that reconsideration hearings be held by SARB on the following conditions: where there is a violation of the rules of procedural fairness, a clear mistake in law or incorrect findings of fact.

We suggest for the sake of simplicity and consistency, that a 60-day time period be applied to all the stages on the appeal route. As noted in the section on internal review, a person who opts for internal review must have their time for appeal to SARB extended to take into account the time spent on the internal review. There should also be a provision in legislation requiring the Board to give consumers and delivery agents five days' notice prior to holding hearings. This will allow parties enough notice so that they can be available and prepared when called to appear.

Direction 43:

- **Legislation should require that SARB decisions be delivered within 60 days of the date of the hearing.**
- **Legislation should provide a 60-day period in which to file appeals to SARB, applications for a reconsideration hearing at SARB, or an appeal of a SARB decision to the Divisional Court.**
- **In addition, SARB must provide five days' notice prior to holding hearings.**

Privacy and Openness

Appeals to SARB often involve matters pertaining to the private lives of individuals. The Statutory Powers Procedure Act allows closed hearings where intimate financial or personal matters will be raised. Under the MCSS Act, SARB hearings are to be held in private. There is no provision for holding an open hearing. Most social assistance applicants or recipients

would probably prefer a closed hearing because the appeal may involve very personal matters and because social assistance carries an unfortunate social stigma. However, there may be cases where the person wants an open hearing. A request for an open hearing by the person appealing should be accommodated. Hearings should be held in private unless the appellant requests that they be open. Although we recognize that this may seem to infringe the Charter right to freedom of the press, we feel it is justified to preserve the privacy of people on social assistance.

SARB provides written reasons for its decisions to the parties involved, but current legislation does not require it to do so. New legislation should specify that there must be written reasons provided for decisions. It is important that people understand not just what was decided, but why. There should also be publication of major decisions taken by the Board. The privacy of individuals must be protected in publication of decisions, while still ensuring that there is public disclosure of the activities of SARB. The Board publishes an annual report, which is mainly statistical. It would be helpful for major or landmark cases to be published so that delivery agents, advocates, legal clinics, recipients and others are aware of decisions that could affect practices across the province. Publication might help to avoid the current situation where SARB is asked to decide on the same issue over and over again in separate cases. There should be a ban on publication of names unless the person appealing requests otherwise.

Direction 44:

- **Legislation must require that SARB hearings be held in private, unless the person appealing requests an open hearing.**

- **Legislation must require that SARB provide written reasons for its decisions to the parties involved. The Board should also publish major or landmark decisions. There should be a ban on publication of names unless the person appealing requests otherwise.**

Enforcement

We recognize there are concerns about enforcement of SARB decisions in the system today. The Family Benefits Act states that the Director of Income Maintenance shall give effect to directions given by the Board. Some municipalities have taken the stand that SARB orders for interim assistance to appellants in GWA cases are not binding. It is not clear whether the section of the Statutory Powers Procedure Act which provides for court enforcement of tribunal decisions applies here.

There is some misunderstanding in both the GWA and FBA systems about what the authority of SARB is. With changes at the Board since the SARC report, there has been a reversal of the previous high success rate of delivery agents at Board hearings. This has led to some resentment and a feeling that SARB is usurping the policy-setting role of the Ministry. Some municipalities are particularly aggrieved about Board orders for interim assistance, which is not recoverable, because of the impact on their budgets. If a delivery agent declines

to accept a clear direction being taken by the Board, individual appellants must continue to appeal each case, wasting the time and resources of all parties. The result is stalemate.

There is need for education and clarification of the role of SARB in the new unified system. In addition, resolution of provincial-municipal cost-sharing issues would help to reduce the problem of non-compliance.

Legislatively, we have addressed the concern about enforcement of the rules and standards of the system through the authority of the Director. In Chapter 4, we made specific reference to the duty of the Director to ensure that SARB decisions are implemented.

Impact on the Board

It may be that the Board will have to streamline its procedures or request more resources to hire more Board members to meet the requirements of new legislation, particularly the expanded grounds for appeal and the time limits on delivering decisions. That is an issue for implementation by the government and SARB. Regulations under the new Act should specify the size of the Board, and require periodic review to ensure that there is reasonable and timely service to appellants.

With the enactment of new legislation, the members of SARB will be faced with an entirely new set of issues. This will make training of Board members of major significance. Given the growing complexity of issues coming before SARB, legislation should specify that Board members receive initial training on appointment and ongoing training, as necessary. Members of the Board should continue to be chosen through open competition, based on selection criteria made publicly available.

Direction 45:

- **Regulations under the new Act should specify the size of the Board, and require periodic review to ensure that it has the capacity and resources to provide reasonable and timely service to appellants. Legislation should specify that Board members receive initial training on appointment and ongoing training, as necessary.**

Chapter fourteen

Checks and Balances in a Streamlined System

Introduction

If social assistance in the future is to become a more dynamic, people-oriented, opportunity-focused system, then a number of changes are required in how the system operates. It must become simpler to deliver, and the mountain of paperwork under which it now labours must be reduced. Otherwise, the system will remain immersed in the myriad tasks now involved in intake to the system, and never have the time or resources to get around to helping people to leave. In a period of severe spending restraint, it is all the more important that we create a system that can be more effective, using the human and financial resources it now has.

> *"Each piece of the legislation must be evaluated with two questions: Does this contribute to/respect the individual's ability to take control of his/her life? Does this contribute to changing societal attitudes towards the recipient of social assistance?"*
>
> Algoma Community Legal Clinic

Delivery must be streamlined, simplified and clarified through changes to the program itself and to the processes used to deliver it. Earlier in this report, we recommended removing unnecessary complexities in the program by eliminating most of the eligibility categories. We have also said that the two existing delivery systems must be combined into one, operating under one Act and one set of regulations and policies. This chapter goes further in recommending ways to make delivery practices simpler, clearer and fairer.

One of the ways to make the system more effective is to make consumers more responsible for their own obligations in the system. In the previous two chapters, we emphasized the rights of recipients and the obligations of the system to act on legislated delivery requirements. In this chapter, we discuss the responsibility of applicants and recipients to provide the system with

accurate information. We discuss the importance of harnessing new technologies to make the system more efficient and more accessible. And we tackle the issues of audits, overpayments and fraud.

Streamlined Delivery

A Personal Declaration System

In the current system, there is an enormous amount of time spent verifying information on application forms. This time could be spent more productively working with recipients, for example, developing an opportunity plan. An important step towards streamlining delivery would be a move to personal declaration. This would require consumers to sign a statement attesting to the truth of the facts they provide on their financial circumstances. The declaration would be similar in its approach to that used by Revenue Canada for income tax.

We raised the issue of personal declaration in *Back on Track* and were concerned to hear critics complain that it would lead to widespread fraud. If that is so, then there are many other systems in our society which must be inviting the same level of fraud. Canadians are asked to complete their own income tax, or to fill out the form to get a driver's licence renewal, for example. As with the income tax, the declaration form for social assistance would require the applicant to provide all relevant, certified documentation to support the application. Like the income tax system, social assistance declarations must be subject to systematic audit. We discuss audit systems and fraud prevention later in this chapter.

It should also be noted that statutory personal declaration does not prevent an applicant from asking for assistance in filling out an application form from a worker in the system or an advocate. The form should be sufficiently clear and in plain language that most people could complete it themselves, but some people will need help. An applicant must take responsibility for the truth of the facts in the declaration, but would not necessarily have to fill it out personally. Legislation should prohibit anyone from charging a fee to assist someone in making an application for social assistance. There have been instances where people calling themselves immigration consultants have charged someone who is new to the country and does not speak the language for making a social assistance application.

To make this system of mutual responsibility workable, the application process, like other communications with consumers, must be clear and understandable. If the principle of accessibility is to mean anything, the way that information is provided must overcome barriers to communication. There are applicants and recipients who do not understand English or French. Others may be functionally illiterate and unable to cope with complicated forms. Persons who are blind or deaf require special accommodation. In certain instances, the system will be required to communicate in writing with applicants or recipients – to ensure that the information is transmitted and to establish legal grounds for appeal. However, the system must also be capable of serving persons for whom written notice is not enough, who require translation and other support services to overcome barriers of language, literacy or disability.

Direction 46:

- **Applications for social assistance should be made on the basis of a statutory declaration which confers responsibility on the consumer to provide all relevant documentation and certify the facts, in a manner similar to Revenue Canada's standard income tax form. Declarations should be subject to systematic audit procedures.**

- **To ensure accessibility, the system must provide communications in a form that is understandable to all applicants and recipients, including persons with disabilities and persons with literacy and language barriers.**

- **An applicant may ask for assistance in filling out an application form, as long as he or she certifies the truth of the information. Legislation should prohibit anyone from charging a fee to assist in making an application for social assistance.**

Reporting Requirements

One of the normal administrative procedures in the GWA system, in some municipalities, is the practice of having people mail in an income statement every month to indicate that they are still in need of assistance. If someone has found a job, the simplest way of leaving GWA is not to send in the monthly notice. The cheque will go on hold in the computer system, and if the person does not call or write in, the file is closed the following month. This is a form of self-declaration in the system that is already working. In the FBA system, however, where there are more longer-term recipients, regular monthly reporting is not used. We had to consider how the reporting system would work in a new unified system, which does not distinguish between GWA and FBA recipients.

If one of our major goals is to streamline the system, we do not want to create a lot of unnecessary paper exchange. On the other hand, requiring workers to check up on all their clients every month to see if there has been any change in their circumstances would make for a heavier administrative burden than there is now. There is also the danger of creating more overpayments in situations where someone did not remember to report a change. Change does not always involve getting off social assistance; for example, families change accommodation; rents go up or down; a father starts or stops paying child support; the oldest child leaves home. Recipients on the Supports to Employment Program (STEP) have earnings and employment-related expenses to report. All these changes can affect the amount of allowance and benefits to which a recipient is entitled.

We heard from consumers during our consultations about the problems of overpayments caused mainly by delays in the system in recalculating income and benefits for people on STEP.

The system we propose is an adaptation of the current GWA and FBA procedures. In consultation with the consumer, the worker will make a judgment whether the person's

income and other circumstances are likely to change fairly frequently. The worker will designate the person as someone who must respond monthly or only periodically, based on the probability of changing circumstances. Criteria should be developed to ensure that the reporting period is not chosen on an arbitrary basis.

This designation should not be set in stone; at the time of determining eligibility, a person's circumstances may be unpredictable and he or she should communicate monthly for a couple of months; later, if it appears there will be little change for some time, the reporting requirement could be changed to periodic. There should be a notice sent out every month with all the cheques, asking recipients to report any change of circumstances. Anyone may respond to the notice, but some recipients should be required to respond within a certain specified period of time or their next cheque will not be sent to them.

We realize that while we do not consider them categories, we have created two separate administrative groups or streams – those who will get a notice or card with their cheque saying they must respond to the social assistance office within a period of time to report on whether or not their circumstances have changed, and those who will get a card with their cheque simply asking for notification of any change. The recipients who are not required to respond monthly will nevertheless be required to send in a card periodically, perhaps four times a year.

We emphasize that this reporting system is not meant to replace the personal one-on-one relationship between a recipient and his or her worker. This reporting method is part of the checks and balances in the administrative system. It is not simply a method for policing the system to find out who is still eligible for what; it also gives consumers more responsibility for their own lives and more protection against overpayments. It will be particularly helpful for participants in the STEP program because it is to their advantage to report regularly on earnings and expenses. This reporting method will help to ensure that the system is alerted to changes and is responsible for responding accordingly so that the consumer is not hit with an overpayment bill from the system after working for three or four months.

Direction 47:

- **Legislation should allow for different reporting requirements based on criteria relating to the probability of changing circumstances of the individual. Recipients with frequent changes of income will be required to report monthly to the social assistance office, while others with fewer income changes will be required to report only quarterly.**

- **All recipients should be given the opportunity, through a monthly notice, to report changes in their circumstances as they occur.**

Pay Period

The FBA program pays allowances at the end of the month. GWA generally pays allowances at the beginning of the month, although it allows for payments to be made twice a month. In a new system, the two programs will be consolidated and a common policy on the pay period must be established. The philosophy of paying at the beginning of the month is to pay in advance for the month to come. For most people, that is probably the most convenient. One of the problems, however, is that some recipients who receive their cheques a few days in advance of the first of the month go to discount money exchange outlets to cash the cheque right away. They may do so because their rent is due on the first of the month, that day is a Sunday and they cannot cash their cheque at a bank until Monday. They get the cash when they need it from the discounter, but they also pay a price for it. They end up with less. We believe that the system should try to eliminate this problem by as much as possible scheduling the dating and mailing of cheques to ensure that cheques arrive on the date they are due and to avoid non-banking days.

In addition, the system should make more use of direct deposit so that the allowance is deposited directly in a recipient's bank account. That eliminates concerns about when the cheque will arrive in the mail and whether a bank will be open to cash it. The recipient must agree to the direct deposit, however. Some are not in favour of it, but it is becoming more popular. In Chapter 12, we recommended improving protection of recipients' allowances from seizure by creditors from an individual's bank account. Direct deposit can actually be safer than a cheque for some recipients who may be harassed by former spouses or others who want cash. Direct deposit can also save the system money. Issuing individual cheques in a system as large as social assistance is expensive. There may be some recipients who would like their allowance divided into two payments per month. We propose that this be permitted only where the payment is made by direct deposit.

Direction 48:

- **Assistance should be paid once a month, preferably at the beginning of the month. There should be an option for recipients to have their allowance paid in two instalments per month if they are making use of direct deposit.**

Contact with Recipients

Our recommendation in *Back on Track* on home visits has led to confusion and controversy. It was contentious mainly because most people misunderstood it to mean that we wanted to abolish home visits. We agree with the consumers and workers who said that the home visit can be a useful way of building up trust in their relationship. We never intended that it be eliminated. What we want to see happen is the elimination of the compulsory home visit. Where the consumer requests or consents to a home visit, the home visit should be conducted. Many persons with disabilities or residents of rural areas who do not have access to transportation greatly appreciate having a worker come out to see them. Some people do not want to have to wait for an appointment in some overcrowded and impersonal office.

The system runs into a problem, however, when the consumer does not consent to a home visit. Following *Back on Track*, MCSS implemented a new policy that home visits should occur only with the client's consent, at random, or when necessary to ensure that the system is not being abused. At the moment, the routine requirement for a home visit has been eliminated, but a home visit for the purposes of checking up on consumers at random or based on some legitimate suspicion of abuse can still be conducted, without the consent of the individual. This new policy conforms generally with a recommendation in *Transitions* on home visits.

A regulation under the GWA Act requires that a welfare worker shall meet with an applicant for the purpose of inquiring into living conditions and financial and other circumstances within one month of the issuance of assistance unless the meeting is dispensed with by the Director of Income Maintenance. A memorandum from the Director says that the meeting may occur in any appropriate location, and, with the approval of the client, in the home. However, *mandatory* home visits were retained as part of a random sample or when necessary to ensure that social assistance is not being abused. The Director has stated that a refusal to allow a home visit under these circumstances may be grounds for ineligibility.

FBA regulations require home visits only in certain circumstances at the request of the Director. After *Back on Track*, a memorandum from the Director to social service administrators stated that home visits have been replaced by personal contact with clients. It also said that home visits may be conducted to assess requests for home repairs or as part of a random sample to ensure there is no abuse of the system.

The Charter of Rights guarantees protection against unreasonable search. A home visit against the will of the resident could be vulnerable to a Charter challenge. In a case where information was collected for a fraud charge during a mandatory home visit, that evidence could be challenged under the Charter right against self-incrimination.

The system must conduct random audits to ensure the integrity of the program. If an audit of the paperwork indicates that there is evidence of fraud, there are many ways, other than a home visit, that can be used to investigate. However, if it is determined that a search of the premises of the person's home is required, a search warrant should be obtained. Fraud is a matter for police investigation. People on social assistance should not have less protection under the Charter against unreasonable search than any other citizen.

Direction 49:

- **Legislation should state that visits to the home of a recipient be conducted on the request, or with the consent, of the consumer.**

- **Legislation should not confer the right to enter the home of an applicant or recipient against his or her will. People on social assistance should have the same right to protection against unreasonable search as any other citizen.**

- **Refusal to allow a visit must not be grounds for cancellation of assistance.**

Effective Use of Technology

When existing social assistance legislation was drafted some 25 years ago, technology had not yet had much of an impact on the workplace. Today, we are constantly reminded of the power and pervasiveness of technological change. Development of appropriate technology represents an urgent challenge and a major opportunity for the social assistance system of the future.

The current computer system, the Comprehensive Income Maintenance System (CIMS) is a central computer system which has been in use in FBA offices of MCSS since 1988. Implementation of the system in municipal GWA offices began in 1989. CIMS calculates entitlements, produces cheques, maintains files, provides consumer notices, interfaces with health care data and produces statistical caseload and caseload management reports. Separate technology has been introduced to supplement CIMS, including electronic mail and personal computers linked to local area networks.

Consolidating the two programs, GWA and FBA, and their separate delivery systems will require a well-planned transition for information systems, as well as for people. This is an opportunity to ensure that the computer system that is in place for a new social assistance program is the one most appropriate for delivery in the year 2000. Technology has changed so much and so fast that many information systems developed a decade ago are already obsolete. The question to be faced by the government at this juncture is whether to continue to invest in adaptation of the mainframe CIMS or to use more advanced technology.

A major factor in that decision must be the capacity and adaptability of the existing system to meet the demands of a new social assistance system. To enhance delivery of social assistance in the future, the computer system must make information simpler to understand and more accessible for consumers and workers. It must be flexible and adaptable, saving time on paperwork for front-line workers and providing consumers with customized services. It must be able to respond quickly to rapid change. It must also protect consumer privacy, while having the ability to share relevant information with other systems.

CIMS lacks many of the characteristics and components that an information system for social assistance delivery will require in the future. CIMS has reached its capacity, and some large municipalities are not yet on the system. There is danger of CIMS breaking down from the overload. Aside from capacity problems, there are also limitations on adaptability. CIMS does not link well with other systems. It cannot respond quickly to new demands or changes. It cannot produce a cheque the same day for emergency purposes. It cannot produce timely ad hoc management reports. A worker cannot put data into the system and read it back.

The whole process of using CIMS is cumbersome: Workers take an application in writing, transfer the information to a client information sheet which is given to a data entry clerk to put into the computer. Information goes to the mainframe computer, is processed and sent back

to the local office. Whatever technology is used for the new system, it must at a minimum provide for one-step data entry, rather than the current three-step process.

Transitions had a number of ideas for better use of technology. It suggested, for example, that consumers should be able to use computer terminals to inquire about eligibility. Technology could also be used to produce personalized budgets for consumers to show them how employment income would affect their benefits.

Technology could potentially be used to make applying for social assistance simpler, using an interactive computer terminal which could be programmed to ask questions in different languages, including signing for the deaf. Data links could help to make information on other programs and services more accessible. Consumers often complain about the number of times they have to provide identical information to fill out different forms for different programs; with adequate safeguards for confidential information, technology could make it easier to share data. Data links could also simplify the process of cross-referencing information from different sources.

Technology could make a major contribution to the opportunity planning process by linking consumers and workers to information on other programs and their availability. It could improve transfer of funds from the Province to delivery agents and create a more consistent cash flow. It could also streamline auditing requirements.

It is important that a technology strategy be developed for use of technology in the new social assistance system. Technology should provide a vital support to the system created by new legislation. It should help to make the system more efficient and effective. The strategy should focus less on how technology operates now, and more on how it should operate in the future. There should be planned phases of development, integrated with long-term planning for the system as a whole. As technology develops, the system should be adaptable enough to take advantage of innovations. This planning process should involve front-line staff and consumers, as well as systems experts, management and other interested groups. Training in the use of technology will be essential. Safeguards must be developed to continue to protect confidential information in data files.

Direction 50:

- **A comprehensive strategy should be developed to enhance the use of technology and improve service in the delivery of a new social assistance system. The strategy should be developed as part of the implementation process for new legislation.**

Audits, Overpayments, Underpayments and Fraud

Comprehensive Audit

One of the things that must happen in a new social assistance system is introduction of comprehensive, systematic, system-wide audit procedures. We do not say this because we believe there is widespread fraud in the system. We believe it is a hallmark of any efficient operation to monitor itself. The social assistance system should be conducting comprehensive audits to see where the system breaks down, where there are bottlenecks, where staff training is required, where reporting requirements have not worked, where information systems have failed, where consumers have been ill served and where fraud is suspected.

A comprehensive, systematic audit is not a fishing expedition, involving investigation of certain case profiles or a file folder full of suspicious applications. It should involve random checks on files and take advantage of new technologies to match information from the social assistance system with information from other systems, such as Unemployment Insurance and Immigration Canada.

We have heard complaints, particularly from staff, that there are not enough controls in the system. At the moment, different local offices have their own strategies for detecting problems. Some conduct random audits. Some have hot lines inviting the public to pass on their suspicions about their neighbours for investigation. Most are focused almost exclusively on detection of fraud after the fact. There should be more emphasis on prevention through such means as computerized information exchange and more effective and timely reporting arrangements for consumers.

The Extent of Fraud

Fraud is an offence under the Criminal Code. A person can be charged with fraud if he or she defrauds the public purse by deceit, falsehood or other fraudulent means. People who receive social assistance to which they are not entitled can only be charged with fraud if they acted with deceit. Fraud covers only conduct that the accused person knew was dishonest. Police conduct fraud investigations and lay charges; a decision on whether to proceed with a prosecution is made by a Crown Attorney. Fraud is also an offence under GWA and FBA, but neither of these Acts is now used to prosecute suspected social assistance fraud. Prosecutions always proceed under the Criminal Code.

So-called welfare fraud is a matter of some controversy. There is no way of knowing how much cheating actually occurs because the government does not keep systematic records of suspected fraud, and only recently began keeping count of how many fraud cases reach the courts every year. The report of the Legal Issues Project Team on this subject said the following:

Advocates, consumers, delivery agents, and the public all have different views about the extent of 'welfare fraud.' It is highly unlikely that the welfare system is 'rife with fraud,' in the sense that large numbers of people are regularly cheating the government of huge amounts

of money. It is just as unlikely that no undetected fraud occurs. There is probably somewhat more fraud than is ever detected, and very much less than is suggested by media stories urging 'crackdowns' on welfare fraud as a means of protecting the public purse.

We do not believe that it would be cost-effective, nor is it appropriate, to launch some massive fraud squad approach to the social assistance system. Rather, prevention and detection of fraud should be part of a wider effort by the system to improve its overall efficiency and effectiveness. Since the fraud provisions in GWA and FBA have fallen into disuse, we recommend that fraud continue to be prosecuted under the Criminal Code.

There are different points of view on prosecution of alleged fraud in social assistance. One takes a hard line that any fraudulent activity, no matter how minor the amount, should be referred to police. Others feel that it is inappropriate to bring the full weight of the law down on someone who has, for example, cheated on relatively insignificant amounts of money, apparently to meet the needs of their children.

There is some discretion exercised in the area of alleged fraud, but much of it is outside the jurisdiction of the social assistance system. The police make the decision whether or not to lay a charge and a Crown decides whether to proceed. However, there can also be some discretion exercised within the social assistance system as to which cases are referred to the police. We recommend that delivery agents be required to establish an internal committee to examine alleged fraud cases to ensure that the cases which are referred to the police are appropriate. It may be that in minor cases, it would be better to recoup the money rather than go through the police and the court system.

Factors to be considered by a review committee should include the following:

- circumstances of the alleged offence (was there need or duress?)
- the extent of the apparent dishonesty (evidence of a complex scheme to cheat, the involvement of others);
- whether the case is a first offence;
- the seriousness of the offence in dollar terms;
- age and gender of the alleged offender and possible impact on children;
- negative consequences for future employment;
- whether restitution has been made or means established for the system to recover the loss.

Overpayments and Underpayments

Overpayments and underpayments are just what they sound like – a recipient receives more or less money that he or she is supposed to receive. In this section we focus on overpayments although many of the same considerations would apply to underpayments as well. A recipient may receive too much money as a result of deliberate intent, but by far the majority of overpayments are caused by administrative error, inadvertent consumer miscalculation or systemic difficulties. Many overpayments are systemic, that is, they are the result of the way the system works.

Overpayments caused by administrative or consumer error can be prevented to a large extent by better training and lower caseloads for workers and better information and advice given to applicants and recipients. Systemic overpayments, on the other hand, cannot be resolved that way. That is because they are the result of a system which does not allow a worker to make an accurate calculation in advance. Therefore, the estimate is going to be wrong, no matter how careful a worker is and in spite of the accuracy of the information provided by a recipient. This has been a particular problem with retroactive calculations for income and deductions for STEP.

There is a relatively low level of systemic overpayments in the GWA system because of its frequent reporting arrangements. The reporting arrangement which we recommended earlier in this chapter for a new unified system should help to reduce some systemic overpayments in FBA. There are a number of steps that can be taken to minimize overpayments, and underpayments including:

- improving reporting arrangements;
- simplifying the program as much as possible;
- providing workers with better training and lower caseloads;
- streamlining the delivery system so that it can respond faster and more accurately to incoming information;
- ensuring that recipients are given clear and understandable information
- effective use of assignments

Recovery of Overpayments

Legislation should allow for the recovery of overpayments subject to the following six conditions or limitations:

1. When an overpayment results from a recipient's failure to meet his or her obligations under the legislation, it must not be recovered unless the recipient was clearly informed of the obligation that he or she failed to meet. The onus must be on the system to establish that the recipient was clearly informed.

2. An overpayment should be recoverable regardless of fault if the amount of the overpayment or other circumstance makes it clear that an overpayment has occurred

and that the client was aware of or recklessly disregarded the fact (for example, if a recipient suddenly receives a cheque for $5000 extra, without explanation).

3. When an overpayment results solely from the conduct of a third party, the overpayment should not be recoverable from the recipient, subject to limitation 2 (that is, the amount could not be so large as to be an obvious mistake). A third party might be a beneficiary who provided the recipient with incorrect information which resulted in an overpayment.

4. Recovery of an overpayment in total or in part may be waived in special circumstances where undue hardship is caused. In such situations, monthly deductions should not exceed five per cent of the basic allowance.

   This is a principle that we have recognized throughout this report: Social assistance provides people with the necessities of life; if someone is going to be rendered destitute by the recovery of an overpayment, recovery should be waived or reduced to a small enough monthly amount to allow the person to have an adequate standard of living.

5. An overpayment shall not be recovered when it results from an error in calculation, an error in judgment, or the failure of a delivery agent to act on information received within a reasonable time. MCSS has a policy guideline which suggests that overpayments caused by administrative error not be collected. The policy guideline does not have the force of law.

6. Except where there has been a conviction for fraud, an overpayment should not be recoverable unless the recipient or former recipient has been given written notice of the intent to recover within one year of the actual date of the overpayment or from the date that the delivery agent knew or should have known of the overpayment.

We recommended in the previous chapter that overpayments be appealable to SARB and that former recipients be allowed to appeal an overpayment charge. The preferred method for collection of an overpayment should be by agreement between a recipient and the system. If there is no other recourse, the system may pursue recovery from a former recipient through civil proceedings.

Direction 51:

- Comprehensive, systematic, system-wide audit procedures should be introduced in a new social assistance system.

- There should be more emphasis on prevention of overpayments through such means as computerized information exchange, more effective and timely reporting arrangements for consumers, and more effective use of assignments.

- Proceedings for fraud should continue to be undertaken under the Criminal Code of Canada.

- Delivery agents should be required to establish a review committee to examine alleged fraud cases to ensure that the cases which are referred to the police are appropriate. Factors to be considered by a review committee should include the following:

  - circumstances of the alleged offence (was there need or duress?)
  - the extent of the apparent dishonesty (evidence of a complex scheme to cheat, the involvement of others);
  - whether the case is a first offence;
  - the seriousness of the offence in dollar terms;
  - age and gender of the alleged offender and possible impact on children;
  - negative consequences for future employment;
  - whether restitution has been made or means established for the system to recover the loss.

- The system should make a major effort to minimize overpayments and underpayments through such measures as:

  - improving reporting arrangements;
  - simplifying the program as much as possible;
  - providing workers with better training and lower caseloads;
  - streamlining the delivery system so that it can respond faster and more accurately to incoming information;
  - ensuring that recipients are given clear and understandable information.

- **Legislation should allow for the recovery of overpayments subject to the following six conditions or limitations:**

1. **When an overpayment results from a recipient's failure to meet his or her obligations under the legislation, it must not be recovered unless the recipient was clearly informed of the obligation that he or she failed to meet. The onus must be on the system to establish that the recipient was clearly informed.**

2. **An overpayment should be recoverable regardless of fault if the amount of the overpayment or other circumstance makes it clear that an overpayment has occurred and that the client was aware of or recklessly disregarded the fact.**

3. **When an overpayment results solely from the conduct of a third party, the overpayment should not be recoverable from the recipient, subject to limitation 2.**

4. **Recovery of an overpayment in total or in part may be waived in special circumstances where undue hardship is caused. In such situations, monthly deductions should not exceed five per cent of the basic allowance.**

5. **An overpayment shall not be recovered when it results from an error in calculation, an error in judgment, or the failure of a delivery agent to act on information received within a reasonable time.**

6. **With the exception of convictions for fraud, an overpayment should not be recovered if it has gone undetected for more than a year.**

Conclusion: Moving Forward

Implementation

We said at the beginning of this report that *Time for Action* is the result of a process that started in 1986 with the appointment of the Social Assistance Review Committee. Much work has been done since then. Many people have had a chance to participate in the process, and a lot of words have been put to paper. Now is the time for decisions and implementation. There should not be a need for yet another report before new legislation is written.

> *"You are working at an unfavourable time for welfare reform ... But you must tell it as you see it. Provide Ontario with a strong vision of how things should be."*
>
> Ontario Coalition Against Poverty

We considered whether we should recommend some form of phased implementation to the Minister. But unlike our interim report, *Back on Track*, this report is not about short-term reform or regulatory change. It is about rebuilding social assistance through new legislation. A draft bill is the next step. There is much that needs to be done to make the current system better, but we do not see the solution as one that lends itself to a piecemeal approach. The system requires a fresh start, with a unified program and delivery structure operating under a new Act.

Once a draft bill is introduced, we expect that there will be consultations around that draft legislation. We look forward to the debate. It will provide a new and concrete focus for discussion. Many organizations and individuals took the opportunity to take part in the consultations for this report and *Back on Track*, but more than one noted that they had been saying much the same thing since the SARC consultations in 1986-87. They urged us to stay the course and wondered when a new system would ever be implemented.

Since *Transitions*, economic recession and restructuring in Ontario have caused enormous hardship and constrained government fiscal flexibility. Economic problems have also made many people uneasy about anything called a reform initiative in social services. We are convinced, however, that there is a great opportunity for reform in this political and economic climate. The

reason is simple: Ontario cannot afford to maintain the system in its current ineffective and inefficient form. Change is more urgently needed now than it was when SARC presented its report in 1988.

We reiterate what we said at the beginning of this report: There comes a time when the liability of not acting outweighs the benefits of avoiding the disruption that accompanies major change. That time has arrived in the social assistance system.

There will be a fiscal payoff from reform, and there will be a payoff in the productive capacity of this province's workforce if social assistance becomes a more supportive and opportunity-oriented system. There will also be a payoff in human terms. The productive capacity of many social assistance recipients can and should be tapped for their good and that of society. The system must be transformed to become a springboard rather than a barrier to employment and opportunity. We support a recommendation made by SARC that the government conduct a cost-benefit analysis of reform, as part of its implementation plan, to show that there are long-term savings in reform.

Making the Transition

The Ontario government has some major decisions to make to allow the system to begin realistically to plan for change.

We recognize that the prospect of major change is unsettling for many people, particularly for those who are recipients of the system and staff who work in it. The government must begin to develop a transition strategy, with the active involvement of both groups, including a new Council of Consumers, front-line workers and their union representatives. Development of a transition strategy must ensure that implementation will take place on a planned basis, with time for people to make necessary adjustments. All staff will require information, training and development to make a smooth transition to a different kind of system. If necessary, new legislation, once passed, could be proclaimed in stages to give the system time to deal with the pressures of change.

Establishing a framework for a new kind of delivery system in legislation is essential, but the key to success of a transformation of the system rests with the people who work in the system. There are some people who work in the system who are among the fiercest critics of reform and there are others who are among the staunchest supporters of reform. Fundamental change must be understood and supported by the people who operate the system or real change will simply not occur. There will be an impression of change, but the spirit of the new system will not take hold. That is why training and development are an essential part of delivery requirements for the new system.

Both *Transitions* and *Back on Track* emphasized the importance of moving ahead immediately with the work necessary to plan for training and human resources development, including the early establishment of joint provincial-municipal training and human resource committees. A new system will require a comprehensive plan for training and development necessary to ensure that the people who work in the system understand what the changes are

and why they are taking place. This will require more than sending a few memos. This will require development of new orientation and ongoing training programs.

Moving Forward

Through the participatory processes established over the last two years, we have attempted to foster and sustain the interest and involvement of a network of people across the province who are knowledgeable about social assistance and ready for change. With the publication of this report, our work for the Minister is done. We do not wish to become a semi-permanent fixture of government. We want to see new legislation introduced, debated in the Legislature and by the public, and passed into law as soon as possible.

We reiterate our concern, expressed in *Back on Track*, that public education is necessary to convince the average Ontarian that social assistance reform is worthwhile, and that it is to the benefit not only of recipients, but of a society as a whole that we move forward with new legislation. We call on the network of committed individuals and organizations which support reform to continue to work for change, and to help convince the public that improving the system is not a wasteful drain on public funds, but a necessary and productive investment in human resources. Supporting people who are in need is not a waste of tax money. What is wasteful is failing to assist people to make the contribution of which they are capable.

Direction 52:

- **The government should develop a transition strategy for moving toward a new unified program with a single-tier delivery system.**

- **Development of a transition strategy must involve participation by consumers, including a new Council of Consumers, and social assistance staff and their union representatives.**

- **The government should begin immediately to plan for the training and human resource development strategies that will be needed to launch a new unified program and delivery system. Orientation and ongoing training for social assistance staff should be part of new legislation.**

- **The government should conduct a cost-benefit analysis of reform of social assistance.**

- **The results of the analysis should be the basis for a public education campaign to inform the public of Ontario about social assistance and the need for reform.**

Summary of Directions

Direction 1:

- New legislation should replace the existing General Welfare Assistance Act and the Family Benefits Act and create a unified program for all recipients of social assistance, with a single-tier delivery structure.

Direction 2:

- New legislation should provide guidance on the purpose and principles of the system and the rights which people can expect to have fulfilled by means of:

  - a preamble stating, in clear and simple language, the underlying values of the system;
  - a purpose clause, in the body of the Act, stating concisely the fundamental objective of social assistance;
  - an explicit statement of rights and entitlements in each section of the Act;
  - specific criteria for decision-making in each section of the Act.

Direction 3:

- There should be no automatic ineligibility for social assistance. Applications must be taken to assess need. However, special circumstances should be taken into account in certain situations.

- People involved in labour disputes should be considered only for short-term emergency assistance to alleviate hardship. Social assistance benefits received before the onset of a strike or lockout should be maintained during the dispute.

- Self-employment should no longer be a reason to exclude a person from applying for social assistance. A consistent set of province-wide guidelines covering assessment of self-employed income should be developed.

- The system should conduct a special assessment of the circumstances of young persons aged 16 or 17 who apply for social assistance to determine why they are seeking to live away from the family home.

- Social assistance legislation should conform to the Age of Majority and Accountability Act by recognizing 18 year-olds as adults. Young adults under 21, who are non-disabled and living in the family home, should be eligible for assistance as adults in their own right if the family is in receipt of social assistance or if an assessment of parental income demonstrates need.

- Lack of school attendance should not be grounds for ineligibility of dependent children in families receiving social assistance.

Direction 4:

- Based on the principle that there should only be categories of eligibility based on need, the number of categories should be reduced to two: persons with disabilities and all others. The separate category for persons with disabilities should recognize their additional needs through a supplement to the basic allowance.

Direction 5:

- In principle, all adult persons should be treated as individuals except where they are living with a spouse who is legally obligated to support them. However, even in this latter instance, the system should treat applicants as individuals where there is hardship. Hardship situations include circumstances in which spouses do not provide support or when disabled persons marry persons with low income. Any income actually received from any source, other than exempted income, should be taken into account in calculating the allowance.

Direction 6:

- New legislation should set asset limits for all recipients at the levels now in effect under the Family Benefits Act and which correspond to the guidelines of the Canada Assistance Plan.

- Exemption for assets used in day-to-day life, including a principal home, should be retained.

- Legislation should allow discretionary authority, based on criteria, to permit people to retain cultural and religious assets in certain circumstances.

- A six-month grace period should be allowed before people have to dispose of assets related to small business, farming or other defined tools of the trade up to a specified ceiling.

- A six-month grace period should also be allowed for applicants with special purpose funds or trusts for retirement or educational purposes up to a specified ceiling.

- New legislation should allow recipients to save for necessary items, which is now allowable under FBA. Guidelines should be developed to clarify what types of items may be designated for savings over the asset limits, such as enhancing employability or obtaining health or disability-related equipment.

- People who give away or sell their assets for less than their market value within a year of applying for social assistance should not be eligible for assistance. However, there should be some discretion for allowing assistance in exceptional hardship situations.

Direction 7:

- The budget deficit needs test should be retained, and the income calculations should be simplified and streamlined to make them more understandable.

- Child support payments should continue to be fully deducted. The government should assume the responsibility of pursuing support on behalf of all recipients whose children are entitled to support. However, eligibility for assistance should not be jeopardized if support cannot be pursued. In addition to its efforts to improve the enforcement of child support orders, the government should legislate guidelines to ensure that court-ordered child support is fair and adequate.

- Where income is to be deemed to be available, the system should take into account whether that income is actually received or reasonably obtainable, and if it is not, and an applicant or recipient is experiencing hardship as a result, assistance should be provided.

- There should be a six-month grace period for matrimonial settlements which involve sale of the family home to allow people time to establish a new residence.

- The $25,000 flat rate exemption for compensatory payments should be retained, with some discretion allowed for recipients to keep amounts above the flat rate in situations where the money is needed to defray expenses resulting from an injury.

- Reasonable assistance from relatives and friends of recipients should be exempt if this assistance meets needs not met by the social assistance allowance.

Direction 8:

- A person who qualifies as disabled for the purposes of social assistance should be defined in new legislation as a person with a physical or mental impairment that, when considered together with the person's education, training, work experience, skills, and age, results in substantial limitations in:
  - performing the activities of daily or community living or
  - the kind or amount of paid work the person can do.
- The disability must be expected to last for six months or longer except in the case of terminal illnesses or cyclical disabilities.
- The determination of disability must be subject to periodic review, as specified by a multi-disciplinary committee or medical adjudicator.

Direction 9:

- Legislation should provide for a three-stage disability determination process.
- Automatic eligibility may be granted by an income support worker in cases where disability has already been established through another process (for example, through the Canada Pension Plan, CNIB or through a court case) and in situations where the medical condition is such that no medical adjudication is necessary:
  - Eligibility may be granted by a medical adjudicator in clear-cut medical cases;
  - All other cases not approved in the first two stages must be referred for assessment by a multi-disciplinary committee, consisting of the medical adjudicator, a vocational specialist, a consumer and a social worker.
- Rejections by a multi-disciplinary committee may be appealed to the Social Assistance Review Board.
- Persons whose applications for disability determination are approved through the first two stages of the process should not have to reapply for the disability supplement if they leave the system and then return after a period of time.

Direction 10:

- Opportunity planning must be defined in legislation as an integral part of the social assistance system.

- The purpose of opportunity planning is to assist recipients to overcome barriers to education, training and employment and to assist recipients who may not be able to work to participate more fully in community life.

- Equity measures should be implemented as part of opportunity planning to overcome systemic discrimination on the basis of race, gender, culture and disabilities.

- Opportunity planning should not be restricted to a particular person or a single job, but should be viewed as a process which requires the expertise and commitment of all staff in the new social assistance system.

- Opportunity planning should provide financial and other supports to ensure that recipients obtain access to education, training and employment. Opportunity planning is not intended to provide or become a work, training or education program in itself. It should coordinate social assistance with labour market systems and social and other supports and services to improve access for recipients to mainstream programs and services.

- The functions of opportunity planning should include:

  - assessment of and by an individual of his or her goals and the barriers standing in the way of achieving them;
  - development of an opportunity plan, including identification by the system of available programs and services and agreement between a recipient and worker as to the steps involved in implementing a plan;
  - advocacy, brokerage and personal support by the system on behalf of the individual to ensure that recipients have access to the programs and services they require;
  - purchase of service by the system for a recipient, where necessary because services are not otherwise available;
  - financial supports, including child care and transportation subsidies and other supports to employment and training to make opportunities for people viable; and
  - monitoring and evaluation of the opportunity planning process to ensure that it is achieving its objectives, that recipients are receiving the assistance they require, that tax dollars are being appropriately spent and that the process is subject to continuous evaluation and improvement.

- Individual opportunity plans should be developed through a process of mutual consent by recipients and workers. Recipients must have the right to appeal the adequacy of an opportunity plan to the Social Assistance Review Board.

Direction 11:

- Opportunity planning will provide recipients of social assistance with access to services and supports leading to education, training and jobs. There should be no sanctions against those who do not participate.

Direction 12:

- A market basket of goods and services that meets societal standards for an adequate standard of living should be developed and maintained as a benchmark for the social assistance system.

- Legislation should require that the social assistance rate structure be set with reference to the market basket. The Act should specify the broad categories that must be included, as a minimum, in the market basket.

- Legislation should require that the costs in the market basket be updated annually, based on the relevant components of the Consumer Price Index. In addition, every five years, there should be a review of the components of the market basket to ensure that they remain appropriate to the needs of modern living.

- The market basket, its annual updating and five-year review should be a matter of public information.

- Legislation should also establish a market basket for persons with disabilities to provide a benchmark on which to base the disability supplement. The same process for updating and review should be conducted for this market basket.

Direction 13:

- The following specialized allowances should be retained in new legislation:
  - winter clothing allowance for children;
  - back-to-school allowance for children;
  - employment start-up allowance;
  - community start-up allowance;
  - Northern allowance for isolated communities.
- These allowances should be subject to annual updating and regular review.

Direction 14:

- Actual shelter costs should be reimbursed up to a ceiling, based on household size. A weighted average of the average rents in the largest urban centres surveyed by the Canada Mortgage and Housing Corporation (CMHC) should be used to calculate the ceilings.
- The flat rate for basic shelter should be abolished. People whose rents are lower than the flat rate should continue to receive the flat rate until their rent exceeds it, at which time they should be reimbursed for actual costs up to a ceiling.
- Heating fuel costs should be calculated separately from shelter and paid at actual costs up to a ceiling sensitive to regional differences. Utilities should be included in the shelter ceilings, except where they include heating costs; in that case, they should be calculated as fuel costs.

Direction 15:

- New legislation should include a comprehensive list of special necessities as mandatory benefits. The following list is not exhaustive:
  - needs related to food, clothing, shelter and personal requirements, such as first and last month's rent, fuel deposits, special clothing, basic appliances, furniture, home repairs and special transportation costs;
  - expenditures that are required by law, such as funeral and burial expenses; and
  - medical requirements such as dentures, wheelchairs, gastro-urinary and respiratory supplies and bandages.

- A short-term emergency benefit should be available to help people in extreme circumstances. Criteria should be established to provide guidance in determining what qualifies as an emergency, including actual or imminent loss of shelter, lack of food and need for emergency transportation.

- Legislation should include dental care, both emergency dental treatment and basic preventive dental services, as a mandatory special necessity.

- Legislation should also include a discretionary benefit to cover important but non-essential special needs.

- There should be a simplified, standardized needs test for low-income persons to determine eligibility for special needs benefits. People receiving social assistance should be automatically eligible for special needs benefits.

Direction 16:

- In principle, social assistance legislation should provide for funding for income support and opportunity planning only. The government should review those areas in which social assistance now provides or supplements funding for other services and programs to determine how responsibility for funding can be transferred to appropriate legislation and mainstream programs.

- This exercise must not be used as a cost-cutting measure. If responsibility is transferred to another program, continued funding must be assured. The following should be transferred from social assistance to other legislation:

  - Handicapped Children's Benefit;
  - Foster Parent Program.

- Hostels for the homeless and shelters for victims of violence should have their own source of stable funding under new legislation which applies to residential facilities. They should not be funded directly by social assistance. Social assistance recipients, however, should be able to use their allowance to pay for room and board in such facilities.

- The government must ensure equitable access to regulated facility care for persons who do not have sufficient resources to pay the full co-payment charged by facilities. This could be done by funding the facilities to cover the full cost of residency for those unable to pay. Alternatively, the facility care system should cover any shortfall between a social assistance recipient's allowance and the residency co-payment.

- The social assistance allowance structure should not be geared to facility funding policies, with the exception of Homes for the Aged and Nursing Homes. Priority should be given through the redirection of long-term care services to moving non-aged persons out of facilities primarily for the aged.

- Social assistance should continue to provide personal needs allowances to persons who are living in long-term care and other residential facilities and who are eligible on the basis of need.

- The personal needs allowance should be increased from $112 to $135 immediately, and should be subject to annual updating and regular review.

Direction 17:

- The funding of social assistance should be a shared responsibility of the federal and provincial governments. The two levels of government should reach an accord that assures ongoing support for social assistance programs across Canada.

Direction 18:

- The Province should resolve the issue of provincial-municipal cost-sharing of social assistance by making a decision now to relieve municipalities of their share of allowances, benefits and administration. A funding tradeoff with municipalities should be negotiated through the Provincial-Local Relationship Reform project for implementation in 1993.

- Under new funding arrangements for social assistance, there should still be provision for cost-sharing by the Province and delivery agents for innovative services and pilot projects at the local level beyond what is required under new legislation for standards of delivery.

Direction 19:

- The Province must exercise its responsibility as the level of government accountable for the overall quality of the system. The role and authority of the Province to monitor and enforce program and delivery standards should be clearly affirmed in legislation and in practice.

Direction 20:

- Legislation should include principles to guide and inform the delivery system, including: responsiveness to consumers, mutual responsibility, accessibility, social equity, fairness, simplicity and openness, accountability and coordination.

Direction 21:

- Legislation should give authority to the Minister of Community and Social Services to establish conditions which must be met by a delivery agent. The Act should set out the conditions and the process whereby delivery agents must demonstrate their capacity to meet those conditions. Regulations should provide further details on the conditions and the process.

- Conditions for delivery should include, at a minimum, that a delivery agent for a new unified social assistance program must:

  - be an arm of government or a not-for-profit organization;
  - have an understanding of and support for the philosophy and objectives of the program;
  - ensure that both staff and consumers are involved in planning, designing, monitoring and evaluating the new program;
  - submit an annual service plan, with measurable goals and objectives, for review by the province;
  - demonstrate necessary capabilities in administration;
  - agree to provide services in French as a condition of delivering the program in areas designated under the French Language Services Act;
  - have the capacity to coordinate and liaise with other systems, agencies and organizations in the community;
  - constitute a viable, consolidated administrative unit capable of providing full-time, quality service.

- The Province should make a decision on options for who may deliver a new unified social assistance program as soon as possible so that the system can begin to plan for the future.

Direction 22:

- A consultation should be conducted as soon as possible on options for delivery of social assistance in Northern Ontario, including the future of District Welfare Administration Boards.

Direction 23:

- The future of social assistance for Native people who live outside First Nations Communities should be the subject of a community-based consultation process, directed by and for Native people.

Direction 24:

- Legislation should give authority to the Minister of Community and Social Services to negotiate service contracts with delivery agents. A service contract would constitute an agreement that binds the parties and defines their mutual obligations concerning what is to be delivered, how it is to be delivered and the resources necessary to deliver it.

- Regulations would set out the elements that must be included in every contract, including, but not restricted to, specific standards for delivery.

Direction 25:

- Legislation should include a field mission statement to provide guidance to those who work in the system. Development of the statement should involve consumers and front-line workers.

Direction 26:

- The Director of Income Maintenance should have the authority and duty in new legislation to:
  - ensure that the program is administered in accordance with provisions of the Act;
  - administer the Act in accordance with its goals and principles; and
  - advise delivery agents as to the manner in which their duties under the Act are to be performed.

- The Director should have the following specific authority and duties to:
  - require a delivery agent to administer social assistance in accordance with the provisions and principles of the Act and to follow the direction and guidelines of the Director;
  - require any information regarding the delivery of services by a delivery agent;
  - require specific information regarding the eligibility of particular recipients or applicants;

- inspect the provision of services;
- require audits;
- order a delivery agent to refrain from any practice which is not in accordance with the Act;
- substitute the Director's decision for that of the local delivery agent in exceptional cases;
- pay benefits and recover the amount of such benefits plus the administrative costs and deduct the amount from any amount due to the delivery agent under any provincial Act;
- establish a delivery standards committee to decide which prospective delivery agents will be qualified to administer assistance and to conduct reviews at regular intervals;
- require a delivery agent to enter into agreements setting out the standards of performance for delivery of the program;
- deduct or withhold funds due to a delivery agent under any provincial Act if the delivery agent has failed to observe its agreement;
- require from the delivery agent an annual service plan and an annual report on the results of the previous year's services plan and any other reports deemed necessary by the Director regarding any matter relating to the administration of the program;
- cancel an agreement for delivery of services with a delivery agent, with provision for cancellation by either party with a year's notice;
- require reports from delivery agents prior to reimbursement of their expenses by the province;
- take over the delivery of social assistance from a delivery agent;
- approve the appointment of local social assistance administrators, with authority to revoke the approval (in exceptional circumstances) and to approve the dismissal of an administrator
- ensure compliance by delivery agents with decisions of the Social Assistance Review Board;
- refer a question of interpretation of any section in the legislation to the Divisional Court;

✦ The Act should also specify the duties of the delivery agent and social assistance administrator to:

- administer social assistance in accordance with the provisions, objectives and principles of the legislation; and

- follow the direction of the Director as to the manner in which the program is to be administered.

Direction 27:

- Social assistance legislation should vest a Director of Income Maintenance with responsibility for supervision of social assistance, as well as decision-making power. Authority to delegate duties should also be contained in the Act.

- To strengthen provincial accountability, consideration should be given to the inclution of an offence section to ensure compliance with the Act and provisions set out in service contracts with delivery agents.

- The Director should be required to produce an annual public report on the state of the system.

Direction 28:

- A Council of Consumers must have a legislated mandate to provide advice to the Minister of Community and Social Services, to monitor the operation of the social assistance system, and make an annual public report on its activities.

- The Council must be involved in all aspects of planning and implementation of a new unified system.

Direction 29:

- Legislation must guarantee the right of applicants and recipients to use an advocate in dealing with the social assistance system, and require that delivery agents inform all applicants and recipients of this right.

Direction 30:

- Applicants or recipients must be informed of any decisions which affect them by means of a written notice. Notices should be clear, easy to understand, and provide all relevant information, including reasons for the decision and the consequences of not responding.

- Where there are barriers to communication, written notice should be accompanied by other methods of ensuring the person is informed of his or her rights and obligations.

- All applicants and recipients must be informed of their right to appeal decisions affecting their allowance and benefits, their right to be represented by an advocate and the availability of interim assistance during appeal.

Direction 31:

- The right of any individual to make an application for social assistance must be guaranteed in legislation. The Act should require delivery agents to take applications in all cases.

- Legislation should also specify that delivery agents must take an application, determine eligibility and provide written notice of a decision to applicants forthwith. Where a decision is not made forthwith, the application should be deemed to have been refused and be subject to appeal. It is understood that the determination of disability for receipt of a disability supplement will take longer than determining eligibility for assistance to meet basic needs.

- Legislation should retain the ability of a delivery agent to provide immediate short-term assistance in emergency cases, without completion of an application, at the discretion of the agent.

Direction 32:

- New legislation should require that written notice on suspension or cancellation of assistance be provided 30 days in advance of the action to cancel or suspend.

- In the case of alterations, recipients should receive adequate notice of significant changes in their allowance; notification of minor change should be attached to a recipient's cheque or sent by separate mail.

Direction 33:

- Legislation should require that where eligibility has been determined, assistance will be paid as of:
  - the date of application or
  - the first day of the month in which eligibility is determined or
  - the first day of the next month, whichever is most appropriate for the applicant.

- There should be provision to grant assistance as of the first day of the month prior to the month of application in exceptional circumstances or where the making of

the application was delayed because of circumstances beyond the applicant's control.

Direction 34:

- To protect individual privacy, new legislation should specify that:
  - there shall be no disclosure or publication of names or personal information about an applicant or recipient without the written consent of the individual for as long as records are held;
  - access to information about individual recipients must be on a need-to-know basis;
  - criteria must be established in legislation allowing access for relevant purposes, such as eligibility determination and review, judicial and appeal procedures and system audit;
  - regulations must define classes of employees who need to know this information on a routine basis.

Direction 35:

- Social assistance allowances should be protected from seizure or garnishment by creditors before payment of the allowance by a delivery agent to a recipient. After payment, allowances should be protected to the extent possible from any type of seizure by creditors, including seizure from recipients' bank accounts because the allowance provides for the necessities of life.

Direction 36:

- Legislation should allow a trustee to be appointed to manage a recipient's allowance where there is an ongoing history of chronic mismanagement of social assistance funds which has resulted in the recipient being unable to provide him or herself or dependants with food, clothing, shelter and utilities.

- Prior to making an order for trusteeship, the Director or social assistance administrator must first determine whether the recipient would benefit from assistance in developing money management skills as an alternative to trusteeship.

- A person acting as a trustee must exercise a reasonable degree of care, diligence and skill in the provision of basic needs to the individual.

- Trustees should be required to keep financial records, to be made available to the Director or social assistance administrator on request.

- Trustees should encourage the recipient to participate to the extent that he or she is capable in the trustee's decisions.

- Barring exceptional circumstances, recipients should be given a portion of their allowance for personal needs. The trustee should allow the recipient to control other portions of the allowance as he or she becomes capable of doing so.

- A decision to impose trusteeship, to remove or replace a trustee, and the continuation of trusteeship must be made appealable to the Social Assistance Review Board.

- Trusteeship decisions must be reviewed on an annual basis.

- The preference of the recipient should be taken into account in choosing a trustee. Trustees must not have any real or apparent conflict of interest with the recipient.

Direction 37:

- Direct payment of a portion of a social assistance allowance for certain expenses such as rent or utilities should be done only with the consent of the social assistance recipient. Recipients should be free to cancel a request for direct payment. Where a recipient requests a direct payment arrangement, the Director or social assistance administrator must take into account whether the recipient has an ongoing history of difficulty in handling finances.

- Landlords, public housing authorities, utilities or other creditors must be prohibited from enforcing a requirement of direct payment of social assistance as a condition of providing service.

Direction 38:

- Regulations should prescribe the information that can be required from applicants or recipients. Forms should continue to be standardized so that all delivery agents ask the same questions in the same way.

- Applicants must be informed of the reasons why certain information is necessary to confirm or verify eligibility and should have full access to their file.

Direction 39:

- Legislation should require every delivery agent to establish an internal review process to respond to requests from an applicant or recipient for review of a decision. All applicants or recipients must be informed of their right to an internal review in addition to their right to appeal to the Social Assistance Review Board.

- The following conditions must apply to the internal review process:

  - Internal review is an option of the applicant or recipient. The individual may choose to waive the right to an internal review and go directly to SARB.
  - Written notice must specify the proposed action, the reasons for it, and the right to internal review and appeal to SARB.
  - The applicant or recipient must be informed of the right to be represented by an advocate and the right to receive full disclosure of evidence relied upon in making the decision.
  - Participation in internal review must be without prejudice to any subsequent hearing at SARB.
  - The internal review must be conducted within the 30-day notice period allowed for warning of a suspension or cancellation. Time limits for taking an appeal to SARB must automatically be extended if the applicant or recipient opts for internal review.
  - Wherever possible, the internal review must be done by a supervisor who is not directly involved in the case. It is recognized that this may not be possible in smaller offices where there is only one supervisor.
  - In cases where notice is made of an intention to suspend or cancel benefits, the recipient must continue to receive benefits, pending resolution of the internal review. If the recipient proceeds to a SARB appeal, provisions for interim assistance will apply.

Direction 40:

- New social assistance legislation should establish the Social Assistance Review Board (SARB), replacing references to SARB now contained in the Ministry of Community and Social Services Act. SARB should continue to be governed by administrative provisions of the Statutory Powers Procedure Act.

- SARB should retain the power to interpret social assistance legislation. Any challenges attempting to invalidate the law should be made to the Divisional Court.

- New legislation should give SARB the authority to conduct a new hearing on the evidence up to the time of the hearing, rather than confining it to reviewing evidence available at the time of the original decision.

- SARB should also be given the authority to affirm, rescind or vary a decision of the delivery agent, substitute its own decision for that of the delivery agent, refer the matter back to the Director for decision or make any other decision the Director could make at the date of the hearing.

- In appeals on refusal of eligibility, the onus should be on the appellant to establish eligibility. Once a person is granted eligibility, the onus should shift to the system to prove why the recipient is no longer eligible. There must be full disclosure of all relevant documents to the appellant and his or her advocate.

Direction 41:

- New legislation should expand the grounds for appeal to SARB to include all social assistance decisions which affect eligibility for an allowance or benefit, the amount of allowance, and the manner in which it is paid.

- In addition to the existing grounds for appeal on refusals, suspensions, cancellations and variations in allowances, grounds for appeal should be extended to the following:

  - effective date of an allowance;
  - failure to make a decision within a reasonable time which may be deemed to be equivalent to a refusal;
  - holding a cheque past the due date;
  - direct payment of allowances;
  - issues concerning trusteeship, including the imposition of trusteeship, the removal, replacement or choice of trustee and refusal to terminate a trusteeship;
  - issues regarding overpayments, such as the existence and amount of an overpayment, the rate of collection, and forgiveness of all or part of the overpayment if that is within the authority of the Director or administrator;
  - adequacy of an opportunity plan;
  - special needs items, whether mandatory or discretionary – Appeals on discretionary items may deal with whether the Director or social assistance administrator has used appropriate criteria in the making of the decision. If this is the case, the Board would not have the power to interfere with the decision.

- The right of appeal should be given to: recipients, applicants, their spouses, former recipients in cases regarding overpayments and former recipients who have commenced their appeal while still receiving assistance.

Direction 42:

- Legislation must specify that SARB will provide interim assistance on the basis of a preliminary assessment of the case to determine if the person is in need of interim assistance and if there is an arguable case for appeal. SARB should have the power to order interim assistance to clients who are appealing to the court where it deems such assistance is necessary to meet need.

- SARB should have the authority to pay individual expenses, such as travel and child care costs, to individuals making appeals to the Board. SARB should also be able to reimburse an appellant for lost wages and the cost of medical reports.

Direction 43:

- Legislation should require that SARB decisions be delivered within 60 days of the date of the hearing.

- Legislation should provide a 60-day period in which to file appeals to SARB, applications for a reconsideration hearing at SARB, or an appeal of a SARB decision to the Divisional Court.

- In addition, SARB must provide five days' notice prior to holding hearings.

Direction 44:

- Legislation must require that SARB hearings be held in private, unless the person appealing requests an open hearing.

- Legislation must require that SARB provide written reasons for its decisions to the parties involved. The Board should also publish major or landmark decisions. There should be a ban on publication of names unless the person appealing requests otherwise.

Direction 45:

- Regulations under the new Act should specify the size of the Board, and require periodic review to ensure that it has the capacity and resources to provide reasonable and timely service to appellants. Legislation should specify that Board members receive initial training on appointment and ongoing training, as necessary.

Direction 46:

- Applications for social assistance should be made on the basis of a statutory declaration which confers responsibility on the consumer to provide all relevant documentation and certify the facts, in a manner similar to Revenue Canada's standard income tax form. Declarations should be subject to systematic audit procedures.

- To ensure accessibility, the system must provide communications in a form that is understandable to all applicants and recipients, including persons with disabilities and persons with literacy and language barriers.

- An applicant may ask for assistance in filling out an application form, as long as he or she certifies the truth of the information. Legislation should prohibit anyone from charging a fee to assist in making an application for social assistance.

Direction 47:

- Legislation should allow for different reporting requirements based on criteria relating to the probability of changing circumstances of the individual. Recipients with frequent changes of income will be required to report monthly to the social assistance office, while others with fewer income changes will be required to report only quarterly.

- All recipients should be given the opportunity, through a monthly notice, to report changes in their circumstances as they occur.

Direction 48:

- Assistance should be paid once a month, preferably at the beginning of the month. There should be an option for recipients to have their allowance paid in two instalments per month if they are making use of direct deposit.

Direction 49:

- Legislation should state that visits to the home of a recipient be conducted on the request, or with the consent, of the consumer.

- Legislation should not confer the right to enter the home of an applicant or recipient against his or her will. People on social assistance should have the same right to protection against unreasonable search as any other citizen.

- Refusal to allow a visit must not be grounds for cancellation of assistance.

Direction 50:

- A comprehensive strategy should be developed to enhance the use of technology and improve service in the delivery of a new social assistance system. The strategy should be developed as part of the implementation process for new legislation.

Direction 51:

- Comprehensive, systematic, system-wide audit procedures should be introduced in a new social assistance system.

- There should be more emphasis on prevention of overpayments through such means as computerized information exchange, more effective and timely reporting arrangements for consumers, and more effective use of assignments.

- Proceedings for fraud should continue to be undertaken under the Criminal Code of Canada.

- Delivery agents should be required to establish a review committee to examine alleged fraud cases to ensure that the cases which are referred to the police are appropriate. Factors to be considered by a review committee should include the following:

  - circumstances of the alleged offence (was there need or duress?)
  - the extent of the apparent dishonesty (evidence of a complex scheme to cheat, the involvement of others);
  - whether the case is a first offence;
  - the seriousness of the offence in dollar terms;
  - age and gender of the alleged offender and possible impact on children;

- negative consequences for future employment;
- whether restitution has been made or means established for the system to recover the loss.

✦ The system should make a major effort to minimize overpayments and underpayments through such measures as:

- improving reporting arrangements;
- simplifying the program as much as possible;
- providing workers with better training and lower caseloads;
- streamlining the delivery system so that it can respond faster and more accurately to incoming information;
- ensuring that recipients are given clear and understandable information.

✦ Legislation should allow for the recovery of overpayments subject to the following six conditions or limitations:

1. When an overpayment results from a recipient's failure to meet his or her obligations under the legislation, it must not be recovered unless the recipient was clearly informed of the obligation that he or she failed to meet. The onus must be on the system to establish that the recipient was clearly informed.

2. An overpayment should be recoverable regardless of fault if the amount of the overpayment or other circumstance makes it clear that an overpayment has occurred and that the client was aware of or recklessly disregarded the fact.

3. When an overpayment results solely from the conduct of a third party, the overpayment should not be recoverable from the recipient, subject to limitation 2.

4. Recovery of an overpayment in total or in part may be waived in special circumstances where undue hardship is caused. In such situations, monthly deductions should not exceed five per cent of the basic allowance.

5. An overpayment shall not be recovered when it results from an error in calculation, an error in judgment, or the failure of a delivery agent to act on information received within a reasonable time.

6. With the exception of convictions for fraud, an overpayment should not be recovered if it has gone undetected for more than a year.

Direction 52:

- The government should develop a transition strategy for moving toward a new unified program with a single-tier delivery system.

- Development of a transition strategy must involve participation by consumers, including a new Council of Consumers, and social assistance staff and their union representatives.

- The government should begin immediately to plan for the training and human resource development strategies that will be needed to launch a new unified program and delivery system. Orientation and ongoing training for social assistance staff should be part of new legislation.

- The government should conduct a cost-benefit analysis of reform of social assistance.

- The results of the analysis should be the basis for a public education campaign to inform the public of Ontario about social assistance and the need for reform.

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Appendix one

Status Of *Back On Track* Recommendations*

- The Advisory Group released their first report *Back on Track* on March 4, 1991. This report contained a series of 88 recommendations aimed at providing substantive, short-term improvements to the social assistance system.

- On May 10, 1991 the previous Minister, Zanana Akande announced that 68 of the recommendations contained in the *Back on Track* report, relating to General Welfare Assistance (GWA) and Family Benefits (FBA) would be implemented in August and October, 1991.

- 51 of these recommendations have been implemented in full. Some of these reforms have provided direct increases in assistance levels for employable people on GWA by equalizing payments at the higher rate paid to people who are considered unemployable. Also, the rates paid to boarders have been equalized at the higher, for profit rate, and sole support parents on GWA are being paid at the higher FBA rate.

- Improvements have been made that will enable people to reduce their need for assistance through increased financial incentives in the treatment of earned income under the Supports to Employment Program (STEP), and the extension of those incentives has been clearly extended to people who are employed full time and are in financial need.

- Fairer access to social assistance has been achieved through the clarification of residency rules. This means that homeless people and refugee claimants will not be considered ineligible for social assistance solely due to the lack of a permanent address or the lack of landed immigrant status.

- The remaining 17 recommendations are in various stages of progress towards full implementation. More time has been required to permit consultation with consumers and advocacy groups, and ensure that the changes are implemented in a way which resolves the issues identified by the Advisory Group.

- The government reviewed all of the recommendations made by the Advisory Group and chose the 68 in order to provide benefits to those in greatest need, to help people get into the labour force, to increase fairness and accessibility, and to assist municipalities with their funding responsibilities.

* Analysis provided by Ministry of Community and Social Services.

- The government announced its intention to address all of the other problems with the social assistance system raised in the *Back on Track* report. However, due to the federal cap on CAP funding and the effects of the recession implementation of the complete report was not feasible.

The following chart is provided by Ministry of Community and Social Services outlines the specific action taken by the government on each of the recommendations made in the Advisory Group's report *Back on Track*.

Effective August 1, 1991

Action Item #	Description
4.3	The Personal Needs Allowance (PNA) should be increased to $112 per month.
4.4	MCSS should adopt a policy that previous overpayments should not be deducted from a recipient's personal needs allowance.
5	Boarders should receive a special increase of $50. per cheque issued.
6	The rate distinction between profit and non-profit boarding rates should be abolished and the allowances equalized at the for-profit rate.
7	The rate distinction between single employable and temporarily unemployable people under GWA should be abolished.
8	While in hospital, people on social assistance should continue to receive their allowances for at least three months, with provision for an extension if appropriate.
9	Three month eligibility for battered women recommended.
11	Home Visits should occur only at the request of the client, or as part of a random sample, or when necessary to ensure that social assistance is not being abused.
13	Applications must be taken in all cases. The right to make an application should be confirmed and promoted.
14	A clear policy statement affirming that all decisions on rejection of an application for assistance or reduction or cancellation of an allowance must be made in writing. In addition, the person must be advised in writing of his or her right to appeal.

15.4	More municipal and provincial offices should experiment with joint intake processes for GWA and FBA.
24	MCSS should indicate by directive that any application or recipient is entitled to be accompanied by an advocate when dealing with the social assistance system.
26.1	Legal counsel for MCSS should explore all avenues for prohibiting by regulation any disclosure of names of persons receiving social assistance, including release of names during closed sessions of municipal council.
26.2	A regulation change or directive should be sent to all municipal councils and provincial offices stating the government's opposition to the release of names of social assistance recipients.
26.3	The Office of the Information and Privacy Commissioner should be asked for a legal opinion on the impact of the new Municipal Freedom of Information and Protection of Privacy Act on disclosure of names to council members.
29	Regulations should be amended to clarify that eligibility for GWA on the basis of residency does not require an applicant to have a permanent address.
30	Residency rules should be formally disassociated from home visits.
31	The regulations under GWA should be clarified to ensure that all people (visitors and out-of-status claimants) applying for landed immigrant status as refugees are considered to be fulfilling the residency requirement for eligibility.
36	The rule governing ownership of a second property as grounds for ineligibility for FBA, should be abolished.
37	The wording of the FBA regulation that applies to saving for necessary items should be extended to GWA.
40	MCSS has withdrawn its appeal of the Social Assistance Review Board decision on disability determination.
42	60-64 year old couples should be eligible for assistance on the same basis as single persons.
44.1	The provincial government should enter discussions with the federal government on terms of an immigration agreement that would include resolution of the sponsorship issue.

48.4	The section of FBA regulations that says benefits may be cancelled or suspended if the person is unwilling to seek employment should be abolished.
58	A definitive opinion should be sought on the legality of withholding social assistance cheques. MCSS should act on that opinion. A policy must be developed to ensure that cheques are not withheld for information purposes only.
70	The Minister of MCSS should urge the Attorney General to consider amendments to the Family Law Act that would redress the lower standard of living faced by women after family breakdown and that would provide a stronger direction to the courts in determining adequate support, particularly for children.
88	MCSS should launch a study of the pay period for social assistance.

Effective October 1, 1991

Action Item #	Description
1	The Minister of MCSS should make a commitment to making special necessities mandatory for people receiving social assistance. A list of special necessities should be included in the GWA and FBA regulations.
3	Needs tests for Supplementary Aid and Special Assistance should be standardized and consistently applied across the province.
4.1	There should be a commitment to extending Personal Needs Allowance (PNA) in FBA/GWA to all people in need in institutions and hostels. People should not be denied this allowance based on the category of institution.
4.2	The PNA should clearly be made an item of general assistance for those who receive it under GWA. This way, there will no longer be any local discretion as to whether the allowance is paid or not.
15.1	The GWA regulations should be revised so that persons who are heads of families whose spouse is absent will receive an allowance equal to that payable under FBA, such allowance to be entirely funded by the province.
17	The practice of directly depositing social assistance payments in a bank account of the recipients's choosing should be encouraged by the Ministry of Community and Social Services in its own offices and municipal offices.

19	Unconsolidated counties should begin the process of consolidation for the purposes of administering social assistance.
20	MCSS and municipal representatives should begin the process of reviewing the role of District Welfare Administration Boards (DWABs), including the issues involved in consolidating service delivery in Northern districts that do not now have a DWAB.
22	Where possible, resources from special assistance and supplementary aid budgets should be used to purchase services and goods from self-help groups to encourage people receiving social assistance to run their own self-support neighbourhood services.
27	Regulations under General Welfare Assistance should be clarified to ensure that GWA is extended to all eligible persons working full-time who are in need.
28	A new regulation should be introduced for single parents so that they do not have to go through an imposed waiting period before being eligible for FBA.
35	A grace period of six months should be allowed in which a person receiving social assistance may retain assets related to small business, farming or other defined tools of the trade up to a specified ceiling. An extension beyond six months should be granted, based on a review of individual circumstances.
41	The medical advisory board should be required to provide written reasons for its advice on disability determination.
43	The discharge payment for persons leaving an institution and moving into a home in their community should be extended to become a community start-up payment. It should be made available, on a consistent basis under both GWA and FBA, to persons leaving institutions and to others in need who are setting up independent residences.
47	The $40 boarder charge levied against two unrelated persons sharing accommodation should be abolished. Boarder charges should remain for normal boarding circumstances.
48.5	The reference to history of employment in GWA regulations should be abolished.

49	As an interim step, the tax-back rate on income above the level of allowable exemptions under the Supports to Employment Program should be reduced from 80% to 75%.
50	Deductions for child care will be applied after the calculation of the 25% retained earnings, such that recipients fully benefit from the retention rate.
51	Persons who are disabled or permanently unemployable under FBA will be permitted, in calculation their net income, to deduct work-related expenses which are attributable to their handicap.
52	All mandatory deductions, including union dues and pension contributions, should be deducted from gross income when calculating net income under STEP.
53	The treatment of income under STEP should be the same for both job training and employment earnings. The employment start-up benefit should be available to persons beginning training, as well as those entering the workforce.
55	All persons with disabilities who receive social assistance and who take training away from home should be eligible for the special accommodation (second residence) benefit that is now only available to participants in the Vocational Rehabilitation Services Program.
56	An enforcement strategy should be developed to ensure that social assistance regulations and directives are implemented in a reasonable and timely fashion. This enforcement strategy should include decisions by the Social Assistance Review Board (SARB).
57	A simple and straightforward in-house appeal procedure should be established to settle disputes over GWA and FBA at the local level. Disputes that remain unresolved could still be taken to the Social Assistance Review Board (SARB) for a decision.
86	MCSS should complete a study of different market basket approaches to compare to social assistance rates and commit to determine which market basket is preferred by the government as a benchmark.

Back on Track Action Items in Progress

Action Item #	Description
1	The Minister should make a commitment to making special necessities mandatory benefits for people receiving social assistance. A list of special necessities should be included in the GWA and FBA regulations.
10	Municipalities and First Nations communities should be invited to make proposals to participate in pilot projects in self-declaration. There should be several pilots in different areas of the province, both urban and rural. Area Offices on the Ministry of Community and Social Services should work with the pilot projects to ensure that the application process for FBA is also simplified and expedited.
15.3	All people receiving GWA for two consecutive years should be deemed to be eligible for FBA in the 25th month.
16	The Ministry of Community and Social Services should establish a $5 million annual fund to provide more support for services and materials in languages other than English and French.
21	The Minister of Community and Social Services should give a commitment immediately on behalf of the government of Ontario to establish a Council of Consumers composed of social assistance recipients who are members from local organizations. Self-help groups, consumer advocacy and other advocacy groups and the community at large should be asked for their ideas on the structure and specific mandate of the Council.
23	A communications strategy should be developed by the Communications and Marketing Branch of the Ministry of Community and Social Services to ensure that accurate, timely and relevant information, prepared by a variety of sources, is provided to people receiving social assistance on how the system works and what their rights, responsibilities and opportunities are.
25	The Communications and Marketing Branch of the Ministry of Community and Social Services should develop plans for a public education campaign to inform people about social assistance and the reform agenda.
33	Employable persons aged 16 and 17 who are in need and who are living outside the family home should be eligible for assistance unless there are special circumstances that indicate that they should not be eligible.

39	In line with the Henson judgement, regulations should be changed to allow persons with disabilities to receive small or moderate estates without losing their allowances and benefits.
44.2	Pending resolution of the sponsorship issue through federal-provincial negotiations, social assistance should be made available to sponsored immigrants who are in need and who sign an affidavit stating that their sponsor is not providing support.
48.1	The regulation requiring a person to take any job of which he or she is physically capable should be changed to refer to suitable employment.
48.2	The Minister of Community and Social Services should write to all municipal councils stating that job searches may be suspended in instances where they are not warranted.
48.3	Criteria should be developed indicating what factors welfare administrators should take into account in requiring job searches.
54	All people receiving social assistance should be allowed to average their employment earnings over six months.
75	A human resource strategy committee and a training committee should be established immediately to begin work on necessary human resources planning to facilitate the implementation of social assistance reform.
84	The Minister of Community and Social Services should take the earliest possible opportunity to begin discussions with the federal government on the issue of maintaining Canada Assistance Plan cost-sharing.
85	The Ministry of Community and Social Services should provide $5 million in seed money for at least six pilot projects to experiment with methods of opportunity planning in a variety of communities.

Appendix two

Advisory Group Consultation: List Of Contributors

TORONTO October 15, 1991:

- Learning Disabilities Association of Ontario
- Centre for Spanish Speaking People
- Best Start Barrie Workgroup
- Lutheran Interfaith Social Assistance Reform Committee (ISARC), Waterloo
- Foodshare Metro Toronto
- Ontario Municipal Social Services Association (OMSSA)
- Darcy Elgin Residence Association

OTTAWA October 16, 1991:

- Renfrew Legal Clinic
- Social Planning Council of Ottawa-Carleton
- Catholic Immigration Centre
- Hastings & Prince Edward Legal Services
- Hastings County
- Kingston Community Legal Clinic
- Centretown Coalition
- Citizens Advisory Committee to the Regional Social Services Committee
- Canadian Advocates for Psychiatric Patients
- Stormont Glengarry Legal Clinic

- Employment Programs Division, Regional Municipality of Ottawa-Carleton, Social Services Department
- Ontario Psychiatric Survivors Ottawa-Carleton
- Canadian Mental Health Association, Ottawa
- Ottawa-Carleton Social Services

NORTH BAY October 22, 1991:

- Kirkland Lake Social Services
- Nipissing District Social Services Board
- Nipissing Legal Clinic
- Immigrant and Visible Minority Women's Organization
- MCSS: Sudbury Area Office, Parental Support
- North Bay, Municipal Office
- Health and Social Services Committee of North Bay
- Town of Cobalt, Timaskaming Municipal Association
- Algoma Legal Clinic
- Manitoulin Health and Social Services Advisory Committee
- District of Sudbury Social Services, Admin. Board
- Low Income People Involvement (L.I.P.I.)
- Alderwoman Lynne Bennett
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TORONTO October 28, 1991:

- MCSS, Northeast Office
- Metro Community Services Department
- Daily Bread Food Bank
- Ontario Chamber of Commerce

- Employment Support Initiatives
- Scarborough Poverty Eliminators
- Association of Municipalities of Ontario (AMO)
- Angela Browne
- Low Income Families Together (LIFT)
- Canadian Union of Public Employees (CUPE)
- Psychiatric Survivors' Alliance
- Steering Committee on Social Assistance, Ontario Legal Clinics
- Donald Beaupre and Roger Monpetit
- Native Women's Resource Centre
- Ontario Public Service Employees Union (OPSEU)
- MCSS, Southeast Local Office
- Income Maintenance Steering Committee for the Handicapped
- Ontario Association of Professional Social Workers & Social Service Educators
- Justice for Children & Youth

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- The Child's Place Family Centre
- Ontario Council Against Poverty
- Chatham District Labour Council
- Cambridge Active Self-Help
- Half the Sky Theatre Company

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- Niagara SARC Network
- Transitions: Corporate Strategies
- Canadian Pensioners Concerned, Ontario Division
- Regional Municipality of Hamilton-Wentworth
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- Algoma District Social Services
- Ontario Social Action Committee
- Jane LeClair
- Barbara Hagarty
- The Ontario Association for Municipal Employment Services
- Children's Aid Society of Metropolitan Toronto
- Steering Committee on Social Assistance
- Wendy Hedge

Appendix three

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Legal Issues Project Team	Marilynne Glick,	Policy Analyst, Income Maintenance Branch, MCSS Toronto

* NB The First Nations Communities Project Team is currently preparing a report on new social assistance legislation for First Nations Communities to be released as a companion document with the next report of the Advisory Group on New Social Assistance Legislation.

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The Legal Issues Project Team was assisted by the members of the Legal Issues Consumers Group.

First Nations Communities Project Team

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Cynthia Jamieson
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Appendix four

Consumer and Frontline Worker Focus Groups Regional Location and Staff List

Focus Groups

Type of Focus Group	Northern Urban, Rural or Remote	South-Western Urban, Rural or Remote	Eastern Urban, Rural or Remote	Central Urban, Rural or Remote
Consumer Focus Groups	8	9	7	10
Frontline Focus Groups	2	1	1	1

Consumer Focus Group Task Group Members

Community Coordinator:

Josephine Grey	Low Income Families Together (L.I.F.T.) Toronto

Other Staff:

Heather A.F. Driver	Policy Analyst, MCSS Toronto
Joan Spence	Policy Analyst, MCSS Toronto

Frontline Focus Group Task Group Members

Faciltators:

Suzanne Mann,	Program Assistant, MCSS Area Office, Sudbury
Greg Best,	Director Rideau Regional Centre, Smith Falls

Other Staff: (Delivery and Funding Project Team Members)

Sarah Kramer,	Policy Analyst, MCSS Toronto
Cheri Booth	Manager, MCSS, Operational Coordination, Toronto
Wendy Eastaugh,	Program Analyst, MCSS Toronto
Ron Wing,	CUPE Representative, St. Catherines
Rick Shier,	OPSEU Representative, Simcoe
Dick Stewart,	Deputy Commissioner of Social Services, Regional Municipality of Ottawa-Carleton
Patrick Lowney,	Program Assistant, MCSS Sudbury

Appendix five

New Social Assistance Legislation Research and Technical Background Documents

General

Inventory of Observations and Issues

Objectives and Principles for Social Assistance Legislation

Terms of Reference for:

- Legislation Development Section
- Project Teams
- Advisory Group

Back On Track

The Rocky Road: A FBA recipient's experience with social assistance

Legal Issues

Social Assistance Policy and Individual Rights

Review of Federal and Provincial Legislation

The Supervision and Guidance of the Social Assistance System in the Province: The Role of the Director

Balancing Competing Principles: The Identification of Problems and Issues Regarding the Prosecution of Offenses under Social Assistance Legislation in Ontario

Identification and Analysis of Discretion in Social Assistance Legislation in Ontario: Options for Reform

Delivery and Funding Issues

Principles for Delivery and Funding

Delivery Mission

District Welfare Administration Boards - Worksheets Summary

Staff Roles Policy

Program Standards, Service Contracts and Conditions for Delivery

Delivery and Funding Issues cont'd

Funding Issues Policy

Funding of the Social Assistance System

Benefit Structure Issues

Benefit Unit Working Paper

Adequacy (Non Shelter) Working Paper

Adequacy (Disability/Special Needs) Working Paper

Adequacy (Shelter) Working Paper

Adequacy (Maintained) Working Paper

Treatment of Income/Assets

Mutual Responsibility

First Nations Issues

Short-Term Social Assistance Reforms for
First Nations Communities

Employment Services Issues

Opportunity Planning

Conditionality and the Crisis of Legitimacy

Conditionality (Academic Research Paper)

Opportunity Supports and Incentives

Employment Program Information Needs

Self-Employment

Executive Summary for Final Report

Final Report on the Evalation of STEP

New Social Assistance Legislation Consultation Papers

Consumer Focus Group

Interim Report

Speaking Out: Final Report

Frontline Staff Focus Groups Report

An Invitation to Participate: A Consultation Guide

A Public Response: A Consultation Summary

New Social Assistance Legislation Project Team Final Papers

Legal Issues Project Team Final Paper

Delivery and Funding Project Team Final Paper

Benefit Structure Project Team Final Paper

Disability Determination Project Team Final Paper

First Nations Communities Project Team Final Paper

Employment Services Project Team Final Paper